



## Answers to some Questions mov'd upon Occasion of the Overture of the General Assembly 1731.

*The following Pages are designed as an Appendix to a much larger Work, intituled, Modern Erastianism unvail'd, or a further Survey of the Right of Patronages: In which the Rights of the Church, and the Privileges of its Members in the Call and Maintenance of the Ministry, and the Duty of the Magistrate with respect to these, are cleared and vindicated from the unjust Representations of a Pamphlet, intituled, The Right of Patronages reconsidered; which will be publish'd while the General Assembly is sitting.*

QUESTION I. **I**S the New Testament sufficient to direct the Christian Church in the Election of their Ministers?

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Answer



*Ans.* **I**T certainly is: For, 1. If the New Testament contain any Rule or Directory, any Precept or Example, concerning the Election of Ministers, it must be a sufficient and perfect Rule, or else it should be no Divine Rule at all; 2 *Tim.* 3. 16, 17. *All Scripture is given by Inspiration of God, &c. That the Man of God may be perfect, &c.*

*Objection.* "Tho', in the Election of Ministers, the " New Testament may be a sufficient general Rule, of " Use under the Direction of the Pastors of the Church, " whom it concerns to see, that Matters be done decently " and in Order; yet it will not follow, that it contains a " perfect particular Rule."

*Ans.* This Argument should be of Force, if in the New Testament there were only some general Heads or Rules laid down, to be used and applied as the Church should think meet; but the New Testament directs us in particular Cases, as in the Election of *Matthias*, *Acts* 1. 21. &c. and of the Deacons, *Acts* 6. 2, 3, 4, 5. (2.) If there were only some general Directions in their Application left to the Discretion of the Church, there should be no determinate Rule at all, the Matter should depend upon the Church, and not upon the Word. Popish enough!

*Secondly,* The Christian Church was form'd by Christ and the Apostles into a Society; and Office-bearers, Rulers, and Overseers, were appointed therein: And it is undeniable, that Men were not to intrude themselves into these Offices at Pleasure; none had a Right but he who was called of God. Now, there behoved to be a Method of Calling, else every one might have taken upon him these Offices at Pleasure, and that without any Charge of being an Intruder.

*Thirdly,* There is no well-constituted Society of any Kind, but what hath certain and determined Rules for electing their Overseers and Representatives of the Society; nor is it consistent with the Safety and Security of the Society, that their Overseers and Representatives be otherwise elected as by a determinate and established Rule: Even so in Christian Society.

QUEST.

QUEST. II. *Can one uniform Method of electing Ministers in a constitute Church, be proven from the New Testament?*

I Have limited and cautioned this Question thus, of electing Ministers in a constitute Church, that I may distinguish from the Appearances and Performances of the Apostles, and other extraordinary Officers in the Church, when the Gospel was first preached to the Nations. But the Question is precisely, If in an established Church, as *Corinth*, *Ephesus*, &c. where there were fixed Pastors, having a particular Relation to particular Flocks, there was one uniform Method of electing Ministers? or any Thing in the Practice and Example of the Apostles, directing to such a Method?

*Ans.* Surely there was one uniform Method, and it behoved to be so; 1. For the preserving of Order and Harmony in all the Churches, which would have been greatly interrupted, if one particular Church-Society had followed one Course and another a different Course.

2. The ordinary Pastors were the same as to their Office, and their Relation to particular Flocks was the same, and the Privileges of the several Christian Societies duly constitute were the same.

3. No Condescendence can be made of constitute Churches in the New Testament, as *Corinth*, *Galatia*, and the *Asian* Churches, that in the Election of Pastors, or what else concerned the Worship, Discipline, and Government of the Church, they differed. When the Apostles ordained Elders in every Church, I will afterwards show, that by *Suffrages* they ordained them Elders in every Church.

4. The Old-Testament Church was very expressly directed as to what concerned the Succession, Consecration and Investiture of their Priests; and 'tis not to be thought, that the New Testament hath left it loose, how they shall be chosen and admitted, who now minister to the Lord.

5. It is generally acknowledged, that without a Mission

and Ordination no Man is to officiate as a Minister : 4. tho' there be Differences as to the Manner of Mission and Ordination, yet every one pretends their own Way to have a Divine Warrant ; and it is as reasonable to assert a determined Divine Method of electing Ministers.

6. Besides the Doctrine of Faith, and the practical Duties of a Christian Life, the Apostles delivered several Rules to be observed in the Ordination and Admission of Elders and Deacons, and other Things belonging to Church-policy : And so zealous and careful were they for Uniformity, that the Apostle *Paul* prescribes Uniformity to the Churches of *Corinth* and *Galatia*, as to the Time of giving their Charity, *1 Cor. 16. 1, 2. Now concerning the Collection for the Saints, as I have given Order to the Churches of Galatia, even so do ye : Upon the first Day of the Week, &c.*

QUEST. III. *May a constitute Church change or alter, as they may judge the Times to require, the Method of electing their Ministers ?*

*Ans. 1.* IT may be needful to distinguish between a duly constitute Church, their changing the Method of electing Ministers, as the Circumstances of the Time require ; and the Circumstances of the Time, their being a Let or Hinderance to their Proceeding according to the New-Testament Rule. A Church, by external Violence and Enrcoachment, may be obstructed in the regular Election of Ministers ; but this will not infer their changing or altering the Scripture-Method. When they are hindred from proceeding according to the New-Testament Rule, they are passive ; but if, by any positive Deed of theirs, they should alter the Scripture-Method, they should be sinfully active.

2. It may be likewise needful to distinguish between how lawfully the Church may proceed to elect and admit Ministers, in a Way as agreeable to the New-Testament Rule, as the Iniquity of the Time will allow, when they

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are violently hindred from coming up to the said Rule : And the Lawfulness of establishing a Method of electing Pastors upon a humane Model, either to accommodate the Matter with a greater humane Imposition, or, under a Pretence of preventing a more Inconvenient humane Imposition, its being stretcht to its full Force. The first may be lawfully done, the last not so ; as in the Case of the Overture of last Assembly, if it shall be enacted, it is but a humane Invention, and Imposition calculated to make Presentations by Patrons go the more deceitfully down.

So that, 3. A constitute Church cannot, according to the New-Testament Model, lawfully change the Method of electing Ministers, tho' they should not be always able of coming up to the New-Testament Rule :

1. Because this would be upon the Matter to say, Either that there is no certain determined Rule in the Word, or that this Rule may be indifferently used, as the Church shall judge meet. If there be a certain determinate Rule, then it can answer all the Inconveniencies that the Policy of Man can suggest. If this Rule may be indifferently used as the Church shall judge meet, or is left to their Discretion, then we can pretend to no certain Rule, and so all Disputes on this Head might fall to the Ground.

2. Allowing a certain determinate Rule in the Word, according to which Ministers are to be elected, none but the great Lawgiver and Head of the Church can dispense with that Rule, vary or change it : Or, if, for now or then, according to the Church's Exigency and Necessity, the Rule may be changed, then it must be by a Divine Warrant ; but the Church hath no such Warrant, empowering them at their Discretion to change the Rule. If outward Force, Violence, and Encroachment hinder from coming up to this Rule, this is not to be imputed to the Church, as varying or changing the Method ; nor can it be constructed any Compliance with Encroachments, to establish a Gospel-Ministry, according to the small remaining Power in the Church's Hands, altho' it should come short of a full Conformity to the New-Testament Rule. When the Church is so unhappily situate, as that it is not possibly in their Power to do better, still this is to



be remembered, that the Church make no positive Compliances with Encroachments, and do no Deed that may contribute to the Support of any such Grievance.

3. It is surely safer for the Church to be short of the New-Testament Rule in electing of Pastors, when this Deficiency is not chargeable upon them, only they are obstructed in the Exercise of their Right, by the Imposition of an unjust Law; than what it is for them to supply this Defect by any humane Invention, Compolure, Contrivance, or Act. To remedy the Restriction of a Christian Right, by a humane Device, is a Reflection upon the infinite Wisdom of the King and Head of the Church, as if his Laws and Institutions could not well balance and overweigh the unreasonable Impositions of Men; and therefore, one humane Contrivance must be set up to destroy another. Tho' one of these humane Contrivances may come nearer to the Rights of Society as another, yet, both of them being only of humane Authority, they cannot, they ought not, in Justice have the Force of a Law, because different from a clearly established divine Right.

*QUEST. IV. What are the rational and scriptural Characters of them who have Right to elect Ministers?*

**T**HE first Character; They who chuse Ministers, ought to act singly, without any Byas or just Suspicion thereof. In all the Matters of God, we ought to act with a single Eye to his Honour and Glory; they who act from no higher Principle, as Friendship, Moyer, and secular Influence, should justly be excluded. Tho' it be difficult for the Church to fix the Byas upon them; yet, when on any tolerable Grounds made appear, it should have due Weight; as, when a Person inordinately recommends a Friend, or acts too notourly under the Influence of them, from whom they have received, or may expect, good Offices.

A second Character is, That they own and profess the  
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ated Principles of the Churches, whose Pastors they pretend to elect, *Acts* 1. 21, 22, 23. *Wherefore of these Men which have accompanied with us all the Time that the Lord Jesus went in and out among us, &c. And they appointed two, &c.* Why do People make Choice of a Pastor, but that he may teach them the Principles which they believe? Will One who regards not the Principles of a Church, make a proper Choice of One to teach the Doctrine of that Church? Will they not rather chuse One, who may be least capable or disposed to wrong or oppose the Principle of the Elector?

A third Character; The Elector of a Minister must be no Enemy to the Constitution of that Church of which the Person elected is to be a Minister. It is not enough that he be One who professeth the Protestant Religion in general, but he must favour the very Constitution maintained by the Pastors and People of that Society. Every Society hath a natural Right to preserve itself, and it can never be safe for a Church-Society, that the open and avowed Enemies of its Constitution elect One to be a spiritual Pastor.

*Objection*, "Allowing these who agree not with the Society in Doctrinal Principles, to be denied a Vote in the Choice of a Minister, yet it appears not so reasonable to exclude them because of different Sentiments in Point of Church-Policy."

*Ans.* 1. If there were an Agreement in Doctrinal Principles, I should grant the Matter were the more tolerable. But, 2. If such as are Enemies to our Constitution will elect, they promise to submit to the Ministry of the Electd; and yet Experience shows how little Regard is to be had to such subscribed Engagements. 3. We cannot reasonably suppose, that they, who are Enemies to our Church-constitution, will shew a due Concern for it in the Election of Ministers, and will not rather so act in this Matter, as to weaken and endanger the Establishment. Every one of us know what Hurt was done this Church, when the unhappy Resolves were concluded for admitting Malignants into Places of Civil Trust; and one should think, that, if these brought forth such Mischiefs to the Church, it were equally dangerous, to allow such to be

Chusers

Chusers of the Ministry. So careful and strict was the Reformed Church in *France* of maintaining their Church-constitution, that, by a Decree of the third Synod of *Charonton*, Anno 1654, among other Baptismal Engagements, a Promise is made to submit to the Order and Discipline of their Church : Upon which I may observe, 1. That, when their Church was in the greatest Hazard, they took not the Way of the Overture of the last Assembly to slack the Reins of Discipline, they become the more strict. 2. That, as Baptism was more precisely personal than the Electing of a Minister, so the Order and Discipline of their Church was in less Hazard by baptizing without such Engagements, than if those not so engaged had been admitted to chuse Ministers. 3. Seeing these they baptized were so bound, we see that none had a Right to chuse a Minister, but they who were bound to the Order and Constitution of their Church, unless any should foolishly think, that they allowed unbaptized Persons this Privilege : For, tho' many had this Privilege who were converted from Popery, and were not rebaptized by the Reformed Church ; yet, among us, as well as among them, all such Profelytes are taken bound to the Doctrine and Constitution of the Church.

Some reason thus, “ What is the Harm for them who  
 “ are not Presbyterians to vote in the Choice of a Presby-  
 “ terian Minister, when they can elect none but such as  
 “ the Church have admitted, or set furth as Candidates  
 “ for the Ministry ? ”

*Answer.* 1. It is true they can elect none but such as the Church have set furth as Candidates for the Ministry ; but, when once they find the Power of Election in their Hands, they can encourage their Gallio Friends to set out for the Ministry, and make them Instruments of the Church's Ruin : They may elect Men, who, tho' not unworthy of the Ministry in some one or other Corner of the Church, yet unfit to labour in more important Places ; so that weaker Men being put in more difficult Stations, the whole becomes a Prey. 3. They may, and for ordinary do, elect Men disagreeable to Congregations, whose Labours are unacceptable to them on whom they are ob-  
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truded, so that the Ministry falls into Contempt, and the People become a Prey to Seducers. 4. If it be a sufficient Restriction of their Capacity of doing Harm, that they can elect none but such as are in the Ministry, or are Candidates for it, by the same Reason we might make an Act, admitting Papists to elect, or Patrons to present, because they can elect or present none but such as are Ministers of the Church, or Candidates for the Ministry.

A fourth Character is, That the Electors of Ministers ought to be actual Members of that Congregation to whom the Person elected is to be a Minister. Reason would plead, That the duely qualified Parishioners are they whom this Affair immediately concerns, and who are to be considered in this Matter: For, seeing it is as Christians, and Members of a Christian Society, that I have this Privilege, no Argument can be formed upon secular Interests, supporting a Title in this Matter.

It will not do to say: "That, tho' Heritors are not presently Members of the vacant Congregations, yet they may come and dwell upon their Estates, and so are to be allowed a Vote, as if they were at present dwelling in the Parish." For

Who are they who should chuse a Minister but they who want one? The Heritor, who dwells in another, as the vacant Parish, wants not a Minister, and therefore hath no Title to elect for that vacant Parish. If non-residing Heritors vote, because they may possibly go to the vacant Parish, and dwell on their Estates, the Tenant of one Parish, who hath taken a Tack in the vacant Parish, and is firmly purposed to dwell there at *Whitsunday*, should be also considered, tho' at present he be no Parishoner, but is, by his Tack, bound to be one at the next Term. Again, If non-residing Heritors vote in the Election of a Minister to the vacant Parishes, because they may come and dwell upon their Estates, this only can respect such as can dwell upon these Estates; so that some Heritors, however considerable their Interests may be, should have nothing to say upon this Footing, because Societies and Incorporations cannot well dwell upon their Estates; and these who have Interests in Fishing cannot do it at all, unless aboard their Boats and Crive-walls: So that when the Rights



Rights of Heritors is pleaded, there would need to be a great many Distinctions, which the Overture of Assembly hath not taken Notice of, and so it proves, at best, but a loose, dubious and uncertain Rule.

A fifth Character, The Elector of a Minister should be of a Conversation becoming the Gospel of Jesus Christ: I should reckon this Character would not be disputed; only, it is to be observed, that when some People cannot with Credit deny a Thing, they distinguish it out of the Field, or rather distinguish themselves out of their Duty. By the Act of Assembly 1649, a scandalous Person is not allowed a Vote; but I am afraid it is not duly consider'd what may denominate a Man a scandalous Person. 'Tis often charged upon us, and, as to our Practice, not without Ground, that we so conduct, as if our Discipline only respected one or two Scandals. For my own Part, whatever may be Practice, I am perswaded it falls within the Compass of our Discipline, that they are scandalous who either dishaunt Ordinances altogether, or attend at *Jacobite* Meetings, do journey, and without Necessity travel on the Lord's Day, are customary Swearers. Now, if but all such, whether Heritors or People, were denied a Vote in the Election of Ministers, there would be a great Reduction among the Voters: And whether they would, in Proportion, be most numerous among Heritors, I shall leave it to a proper Court of Inquiry, which I expect to see constitute, when the Giving of very considerable Ecclesiastick Privileges to many of the most abandoned Characters is at an End.

A sixth Character of them who should be admitted to elect Ministers, is, They ought to be Persons, who are full and complete Members of the visible Church; that is, Persons who participate in all the Ordinances, Word and Sacraments: For, 1. Such as are not admittable to the Lord's Table, are these who are either ignorant, or scandalous; if scandalous, then, by the Act of Assembly 1649, such are not allowed a Vote in the Election of a Minister. If not admittable, because of Ignorance, then unfit to make a proper Choice of a Minister. 2. The Sacrament of the Lord's Supper being the alone Ordinance of Confirmation of them who in Infancy were baptized,  
how

now unreasonable is it, that they who have never made any solemn publick Profession of their Faith, should be allowed to elect a Gospel-Minister? Hath it not been experienced since the Reformation, that Papists have gotten Indulgencies to be Hearers of Protestant Ministers, providing they did not communicate with them: So that if all ordinary Hearers should elect, what a dangerous Situation must the Church be in? 3. If the Members of a visible Church do not communicate through a Carelessness about, or Contempt of, the Supper, they are then justly to be esteemed scandalous, and, as such, should not be honoured with a Voice in the Choice of a Minister. 4. We find, *Acts* 1. that they who were concerned in the Election of *Matthias*, were such as fully followed Christ, and his Apostles in their Ministrations.

The *Wirtemberg* Confession, on the Head of the *Eucharist*, have these Words; *Hoc Christi institutum verus & vera Ecclesia tam severiter observavit, ut eos, qui in hoc sacro presentes non communicarent, excommunicaverit.* To which they add the Words of *Anacletus* in his first Epistle. *Peracta consecratione omnes communicent. Qui noluerint, Ecclesiasticis carere liminibus, sic enim & Apostoli statuerunt & sancta Romana, tenet Ecclesia.* And from the Council of *Antioch*, Chap. 2. *Omnes qui ingrediuntur Ecclesiam, Dei, & sacras scripturas audiunt, non autem cum populo in oratione communicant, & aversantur sanctam assumptionem Domini sacramenti, secundum aliquam propriam Disciplinam, hos ab Ecclesia abjici oportet.*

The Synod of *Poictiers*, Anno 1560, it being demanded, "What Course should be taken with such, who  
" having been a long Time Members of the Church, yet  
" do not communicate at the Lord's Table, lest they  
" should be obliged to a total Renunciation of Idolatry?  
" The *French* reformed Church answer, That if, after  
" some convenient Time, and Admonition given them,  
" they do not reform this their Neglect, they shall be  
" cut off from all Communion with the Church."

I own there are some serious exercised Persons who are afraid to approach to the Lord's Table, whom it might be inconvenient to exclude. For, if in any Case Exceptions  
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from a general Rule are to be admitted, they are in this Case ; but the Exceptions of this Kind will be so few and rare, that there may be little Ceremony about their being allowed ; nor is the Church in Hazard by such as are so tenderly affected, nor will they readily, who are under such Straits in their own private Exercise, be very forward in meddling in Matters of such publick Concern.

A seventh Character of them who should be allowed to vote in the Election of Ministers, is, That seeing we are bound by the Law of God to regard and honour our Rulers, and seeing the Lord hath blessed us with a Christian Magistracy, who protect the Church in her Liberties, Persons dissaffected to our happy Civil Government ought not to be allowed a Voice in the Election of Ministers. By Persons dissaffected, I do not mean all these who have some Scruples at the publick Oaths, but otherwise give all imaginable Demonstrations of Affection to his Majesty's Person and Interest; and in Times of Need are found among the first and readiest to defend his Person and Title. Nor by good Affection to the Government, do I mean these, who, tho' they have taken the Oaths, do yet attend *Jacobite* Meeting-houses, where his Majesty King *George* may not be prayed for. It requires no Art for a Church-Judicatory to distinguish betwixt the two, and to determine who hath the preferable Title ; they who daily pray for his Majesty, and give unquestionable Demonstrations of their good Affection to his Person and Title, or they, who, tho' they have taken the Oaths, cannot hear the King prayed for, but desert other Ordinances, and attend *Jacobite* Meeting-houses, where King *George* is not prayed for, as some of our Justices of the Peace do, the Men who should discourage these Nurseries of Rebellion.

*Objection.* " You was pretending to speak of the Election of Ministers, as the Deed of the Church, how come you to form the Character of an Elector upon a Civil Consideration and Capacity ? "

*Answer.* 1. I grant, that, as the Subject of a Commonwealth, I obey the Magistrate, but I do that in regard to a Moral Precept ; and the Trampling upon a Moral Precept must be highly offensive to the Church, and what makes

makes a Man scandalous to the Church, doth justly exclude him from a Voice in chusing a Minister. 2. The Church ought to preach up Obedience to the Civil Powers, and he who counteracts their Admonitions, is yet more formally an Object of their Censure, and while such, should not be admitted to elect a Minister. 3. How reasonable and just is it, that the Church, which hath the Protection and Concurrence of the Christian Magistrate, should study the Security of his Majesty's Government, which is not done when Persons disaffected to his Government are allowed to vote in the Election of Ministers.

QUEST. V. *Should any others be allowed to vote in the Election of Ministers, but they to whom these Characters belong?*

Ans<sup>r</sup>. 1. **A**fter the Election is made by Persons qualified as above, if any others, not so qualified, offer their Acquiescence, the Church may, *ex superabundanti*, receive it; but that they should be so considered, as to have a decisive or determining Influence in Elections is refused. For, 2. With respect to the several Characters of them having Interest to elect, they who are openly scandalous, or act under notour Bias, cannot in Reason be admitted; and as unreasonable is it to admit them who are open Enemies to the Principles and Constitution of a Church, they will endeavour the Weakning of both, as far as an improper Election can go, if they be admitted. And still unreasonable may it be thought, that they should be allowed to chuse a Minister for a Congregation, who are not Members of that Congregation, or that they, who, tho' they may be Members of the Congregation, yet do not partake of, or submit to, Ordinances in that Church, or who shew not a Regard to all the Ordinances administred in that Church, or are not admissible to these, or are Enemies to our happy Civil Establishment, are disaffected to his Majesty's Person and Title, which this Church should so far maintain, as not to put it into the Hands of disaffected Persons to vote in the Election



Election of Ministers, by which Means we may soon come to have a disaffected Ministry, as well as a disaffected Gentry.

QUEST. VI. *Are the Christian People, or Society of Believers who join in full Communion together, the Persons, who, according to the New Testament, have a Right to elect their Ministers?*

Ans<sup>w</sup>. IT is surely such as have Right and Privilege in this Matter; and that they who are not so qualified, have no just and reasonable Title, hath been proven by unanswerable Arguments of learned Men, both of old and of late, Abroad and at Home; upon which I need not enlarge, but shall only, by a brief View of the Matter, offer a few of the Arguments from the New Testament proving this Point.

1. If extraordinary Office-bearers in the Apostolick Times, were not chosen and put into their Offices, without the Suffrage of the Church, far less ought any ordinary Minister to be admitted without their Suffrage, where they will make an Election, and claim their Privilege for that End. *Acts* 1. 21. to the End, *Matthias* was chosen an Apostle by the Suffrage of the 120 Disciples. The Extraordinariness of the Method of Election by Lots will not alter the Matter, nor break the Force of the Argument; for if the Society of Believers gave forth their Lots in this extraordinary (Case which we see they did, *as v. 26.*) by the same Parity of Reason are they to be allowed their Suffrage in ordinary Elections.

Object. "The Apostles were the Electors of *Matthias*, " and not the 120 Disciples."

Ans<sup>w</sup>. I own this is the Opinion of learned Men, with whom in other Things we do harmonize and agree, and run not so distant off one another in the Method of electing Ministers, if the Matter were duly considered, as some do alledge. But for an Answer to the Objection these Things may be offered; 1. That the Apostles were the

the only Electors of *Matthias*, is said without Ground ; for the Eleven, and the Disciples then assembled, were all one Society, and the Apostles do not distinguish themselves from these, either in the List made for the Choice, or in the giving out of their Lots. 2. If the 120 Disciples gave not their Suffrage, or forth their Lots in the Election of *Matthias*, what Reason can be given why *Peter* stood up in the Midst of the Disciples, and made such a solemn Address to them before they proceeded to the Election ? It will not be admitted here, that the Apostles, the Church Representative were the Electors, or such as gave forth their Lots, and that the 120 Disciples were the Consenters and Approvers of the Choice made: For, 1<sup>st</sup>, By this Way of Reasoning the Choice should have been previous to *Peter's* solemn Address to the Disciples ; but he tells them before-hand, That One of us must be chosen ; that is, one of this collective Society of Apostles and Disciples, for the Eleven Apostles had a solemn Investiture before now. 2<sup>dly</sup>, We read, v. 26. That they gave forth their Lots, Who ? *Answ.* v. 21. These Men who accompanied with the Eleven Apostles, all the Time that the Lord Jesus went in and out among them. *Lastly*, If the Eleven Apostles were the alone Electors of *Matthias*, then, from this it should follow, that the Pastors of the Church were the alone Electors of their Fellow-Pastors ; and so the Matter should be accommodate with the *Episcopalians* of *Rome* or *England*, and a perpetual Bar should be put to any Claim the People should have, either in a collective or representative Capacity : And, as to ourselves, all Disputes about Heritors and Elders, their being Electors of Ministers should be at an End : For, according to this Gloss upon the Election of *Matthias*, they have no Title, and yet even some *Prbyterians*, who are against popular Elections, allow the People a decisive Suffrage, where there is not an Eldership to represent them ; but at the Chusing of *Matthias*, there was no other Eldership as that of the Apostles.

A second Argument for the People's Right of Election, we have, *Acts* 6. 2, 3. At the Election of the Deacons, the Twelve called the Multitude of the Disciples unto them, and said, Look ye out from among you seven Men  
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*of honest Report, whom we may set over this Business.* From this we see, that the inspired Apostles would not ordain the Deacons, but upon the People's Choice, tho' the Deacons Office only concerned the Disposing of their Alms and Charity. Now, if in such a Case they were allowed to chuse, much more should they chuse, where the Intetest of their Souls is immediately concerned.

*Object.* "The Deacons were to be Stewards of the  
" People in the Disposing of their Goods, and good  
" Reason they should be chosen by them whose Goods  
" were to be disposed of."

*Ans.* The Speciousness of this Argument will vanish, if it be considered, 1. That Pastors and Deacons are both alike, as to their Appointment; that is, they are both of Divine Institution, whatever Difference in other Respects may be between them. 2. If People were to be imposed upon in the Election of Church-officers, it were more tolerable in the lesser Concern, than in that of greater Consequence; and if the Lord hath taken Care, that they should be satisfied about the one, much more that they should be satisfied about the other. A Man hath a Right to chuse his Servant, much more hath he a Right to chuse his Wife, because his Interest and Happiness much more depends upon the right Election of the one, than of the other. The Interest of the Church depends much more upon its Pastors, than upon its Deacons; therefore if it have a Right to elect the Deacons, much more to elect the Pastors.

This Argument drawn from the Brethren or Society of Believers their electing the Deacons, is so clear and convincing a Proof of the People's Right to elect their Pastors, that they who are against popular Elections, have no other Shift, as to flee to a poor sophistical Story, saying, That we are not affirmatively to argue from the lesser to the greater.

Upon which I do not refuse, that because I can do that which is least, it will not in Reason follow, that I can do that which is most; but if a lesser Interest gives me a Right, a greater Interest doth much more give me a Right. If the Interest I have in the Church's Charity, gives me

a Right to elect a Deacon, the Concern I have in my own Soul gives me an equal, or higher, Right to elect a Minister: And this is a plain, easy, and rational Answer, without any Sophistry.

*Thirdly*, We read in *Acts* 14. 23. that *Paul* and *Barnabas*, after they had preached the Gospel at *Lysira*, *Iconium* and *Antioch*, they ordained them Elders in every Church; or, as *Calvin* and *Beza* do render it, when they had by Suffrages ordained them Elders in every Church. I shall not here enter upon the Contentions that are about the Meaning of the *Greek* Word *χειροτονία*; these who would not have it to signify an Election by Suffrages, expound this Place only as if *Paul* and *Barnabas* stretching out their Hands, that is, by the Imposition of their Hands, ordained Elders: But, as the Word *χειροτονία*, in the Room it hath in this Place, alludeth to the Custom of the *Greeks* in the Election of their Magistrates, who were approved of the People, by the holding forth, or stretching forth of their Hands; so, when Imposition of Hands in Ordination is meant, we find another Word used, *1 Tim.* 4. 14. *μετὰ ἐπιθέσεως τῶν χειρῶν τοῦ πρεσβυτερίου*. And in the 13. of the *Acts*, when Hands are laid on *Paul* and *Barnabas*, the Word is, *καὶ ἐπιθεύτες τὰς χεῖρας*.

*Fourthly*, In the established Church of *Corinth*, the Apostle would not so much as send One to bring their Liberality to *Jerusalem*, but such as that Church should approve of, *1 Cor.* 16. 3. It is not very like that this Apostle would have obtruded upon the Church of *Corinth* a Pastor whom they approved not.

*Fifthly*, In the 2. of *Cor.* 8. 23. the Ministers of the Gospel they are called the Messengers of the Churches; and in the 19 v. he speaks of a Brother who was chosen of the Churches to travel with us. It is to be observed, that the critical Word, *χειροτονία*, is made Use of here; so that they who would take it for Ordination by the laying on of Hands, must render the Text thus, *who was ordained of the Churches*: And when they endeavour to bear down popular Elections, I am afraid they establish the Opinion of popular Ordination.

These are but some short Hints of what is enlarged u-  
pon



pon long before now, for proving the Right that Christian Societies, duly constitute, have to elect their Pastors ; and the Title hath such a Foundation in Reason, and the common Rights of Society, that it is strange that any should deny the same Privilege to a Christian Society, which is an inherent natural Privilege of Society.

I could here multiply Testimonies from Antiquity, proving the Practice of the Church to have been this very Thing which I now plead ; but, as it would be needless, so it would be impertinent for me to offer any Thing this Way, after what is so copiously done almost by every Body who writes on this Subject. It is enough for my Purpose, that we can prove the Church's Title from the New Testament : And I undertake to give up the Cause, for my Part, if any will shew me from the New Testament, that Heritors and Elders, and not the People, were the Electors of Ministers.

So that if Ministers be the Messengers of the Churches, and chosen of the Churches, and are such as the Churches do approve, it will not do to pass a Bill of Exclusion against the People, because they are not Judges of Ministers Qualifications, therefore they are not to be their Electors.

For, 1. The Election of the People, and their Judgment thereon, is not simply and absolutely, Whether such a Man be fit for the Ministry or not ? that Church-judicatories who have licensed them have already determined ; but their Judgment is, Who is the Man that is fittest for them, who is most adapted to their Capacity, by whom they may be most edified ? This is a Privilege of judging, that none can reasonably deprive them of. 2. If Congregations chuse unfit Persons, the Presbytery are Judges, and it will not be always found that Heritors and Elders are infallible in their Judgment more as the People. 3. Let any Man tell me, if they who submit to Gospel-Ordinances, and hear them whom they elect, are not fitter to make a Choice, as disaffected Heritors, who are never Hearers. 4. If Knowledge and Capacity be a requisite, or needful Qualification in an Elector, then Trial should be made who hath the best Title ; and if, upon Enquiry, the People be found void of Capacity, let them be rejected ; and if the Heritors labour

un-

under this Defect, let them also be rejected. But it will be observed here, that it is a Knowledge in the Word of God, and Principles of Religion, of which Trial is to be made: So that, tho' an Heritor should never so learnedly explain a Proposition in *Euclid*, and the Tenant have no more Mathematicks, as how to till his Ground, or build his Cottage; tho' the Heritor should talk surprisingly to the honest Tenant of the Country of the *Hot-tentors*, and the Tenant be as bad a Geographer as an *Irish* Papist, who ask'd, if *Jerusalem* was in *Ireland*; yet this will not exclude the Tenant, and establish the Heritor's Title: But, if the Tenant be ignorant in the Principles of the Christian Religion, and the Heritor knowing in these, and One that walks conform thereto, then let the Tenant be rejected, and the Heritor respected. I should be glad Heritors and People were put to this Trial; I am apprehensive the People would not generally be found so ignorant as to be excluded, nor Heritors so generally acquainted with such Matters as to claim such a distinguishing Privilege.

QUEST. VII. *Is the Overture of the last General Assembly, mentioning the Consent of the Patron, and making Heritors and Elders the Electors of Ministers, framed according to, or warranted by the New-Testament Rule?*

Ans. **W**Hatever political Considerations some may alledge, in laying down a proper Rule for the Election of Ministers, it can never be pretended to have Warrant in the Word of God, that Heritors, as such, and Elders, should be the sole Electors of Ministers, or that the Church, in proceeding to elect, should be any Way influenced, directed or determined by the Consent of the Patron: For,

1. If the People vote not, it is because the Election is made by the Representatives. Now, whatever may be said

for the Elders their representing the People, yet the Heritors as such have no representative Capacity, Civil or Ecclesiastick: So that, upon the Footing of a representative Right, Heritors are excluded, and the Overture in its Chain is broken, and is contrary to the Word of God, *Jam. 2. 1, 2, 3. My Brethren, have not the Faith of our Lord Jesus, with Respect of Persons,——For if there come into your Assembly a Man with a Gold Ring, in goodly Apparel, and there came in also a poor Man in vile Raiment,——and ye have Respect to him who weareth the gay Clothing, &c. are ye not partial in yourselves?* For no Reason can be given why Heritors are so privileged in the Election of Ministers, and the People are not, but that the one are the great and the rich, and the other the poor, and these of lower Rank. 2. In the Case of *Matthias's* Election, it was done by the Multitude of the Disciples; and the Deacons, *Acts 6.* were sought out, and set before the Apostles by the Multitude of the Brethren: So that, if Heritors be Electors, it is only as Disciples and Brethren; and their Right, as such, can never in Reason or Justice be exclusive of the Right of another Disciple and Brother. 3. According to the Overture, the People vote not, because they are represented by the Elders. Now, suppose the Elders in this Matter were the People's Representatives, then they are the Representatives of the Rich as well as of the Poor; and, if so, of the Heritors as well as of the Tenants: For Heritors, as such, are only of the People, tho' the richer of the People. 4. If Heritors distinct from the People, and exclusive of the People, be allowed with the Elders to be the proper Electors of Ministers, it must be because of their Influence as rich Men, and the Dependence which the Church hath on their Riches; but this Ground of their Right is the Reverse of what we read in the New Testament. There were, in the Days of the Apostles, many poor Disciples and Brethren who had not Estates to sell and to lay at the Apostles Feet, yet are they not excluded from the Election of the Deacons; and they who had sold their Estates were not the Electors of them who should be Stewards of the Price; the Multitude of the Disciples and Brethren, the Poor as well as the Rich, had

had this Trust equally in their Hands. 5. As to Elders, it appears to have no Warrant in the Word of God, that they should vote as the Representatives of the People: No Doubt a Call may be so stated, as that, because of the Office and Character of Elders, a distinguishing Regard is to be given them; but that they are the People's Representatives in this Matter, hath not, in my Opinion, as yet been proven. 6. As to the Consent of the Patron, Patronages being a mere humane Device, and a Device that hath brought the Church into Bondage, it might have been expected, that the Church of *Scotland*, who have so often remonstrate against this Usurpation, would never have emitted any Overture, asserting, without any Explication, the Patron's Concern; for when his Consent is mentioned in the Overture, it is said, *and of others concerned*, which plainly suppoeth and acknowledgeth his Concern. 7. As to Magistrates and Town-council, altho' they, in Vertue of their Office, are intitled to Regards that Heritors, as such, cannot claim; yet the Room that the *Dutch* Churches gave them, was rather as Consenters to Elections, than proper Electors: And where they have an immediate and particular Interest in chusing a Pastor for themselves and the City in which they govern; yet this should never be understood in Prejudice of the Rights of other Christian Citizens and Parishioners. I have, in my further Survey of Patronages, shown, from *Spotswood*, p. 545, that popular Elections did obtain in the City of *Edinburgh* from the Reformation to 1624 that they were discharged, and the Election was put into the Hands of the Magistrates, Town-council, and Kirk-sessions; so that our Overture, in this Respect, is of a Prelatical Original.

It is commonly objected, "That according to the *French* Discipline, and our second Book of Discipline, and the Act of Assembly 1649, the Elders are the Electors of the Minister."

*Ans.* 1. As to the *French* Church, whatever Power the Consistory had in the Election of Ministers, it will be found, that without their Consent, and the Consent of the Congregation, a Minister was not to be planted in a Church.



2. As to our second Book of Discipline, *Chap. 3. § 3.*  
 "The Minister is to be chosen by the Judgment of the  
 "Eldership, and the Consent of the Congregation, and  
 "no Person is to be intruded contrary to the Will of  
 "the Congregation and the Voice of the Eldership." I  
 wish these who talk, as if we had not a Rule about elect-  
 ing a Minister, would consider this, and pass an Act u-  
 pon it; that this be the Way, I think this would be a  
 popular Election; only the Unhappiness would be, it is  
 more favourable to the People than the Overture; and  
 if this were the Way of it, none behoved to be thrust in  
 on Congregations against their Will, and so many should  
 miss their Mark in some of their darling Settlements.

3. As to the Act of Assembly 1649, the Election of  
 the Elders and the Consent of the Congregation  
 mentioned therein, seems to be exactly upon the Model  
 of the second Book of Discipline; and as the Matter is  
 expounded by Divines of that Time, it terminates in a po-  
 pular Election; for, tho' the Elders elect, yet if the elect  
 Person be not agreeable to the Congregation, or if they  
 incline another unexceptionable Person as more agreeable  
 to them, this was good Ground of Dissent from the  
 Election made by the Elders.

Of this Opinion we find the reverend Mr. George Gil-  
 lespie, in his *Miscellany Questions*, p. 26. he moves this  
 Objection, *That the Church may not dissent without ob-  
 jecting somewhat against the Life and Doctrine of the  
 Person elected.* To this he gives several Answers; as,  
 1. *If this be all the People may object, it is no more than  
 Prelates, yea, Papists have yielded.* 2. *Any Man, tho'  
 not a Member of the Congregation, hath Place to ob-  
 ject on such Grounds: So that, unless the Congregation  
 shall have something more as Liberty of objecting, they  
 have no Privilege but what is common to Strangers as  
 well as to them.* 3. *Tho' nothing be objected against  
 the elected Person's Doctrine and Life, yet, if the  
 People desire another better or as well qualified, by  
 whom they find themselves more edified, that is a Rea-  
 son sufficient, if a Reason may be given at all.* So  
 that,

4. We see, that altho' the General Assembly 1649 made such an Act for the more expeditious electing of Ministers, according to the above Way of understanding it, it was in Effect a popular Election. But, inasmuch as Corruptions do so much prevail, and that even that Act in 1649 is now otherwise interpreted as it was then, the surest and safest Way is, for the People duly qualified to vote, *propria persona*. But then,

5. Whether we betake ourselves to the *Dutch* or *French* Discipline, to our own second Book of Discipline, or to the Act 1649, there is nothing in either of these constituting Heritors Electors, or acknowledging the Concern and Interest of the Patron; and yet our second Book of Discipline was composed at a Time when Patronages obtained, and according to the *Reconsiderer* were more rigorously exercised as now.

6. That the Election of the People or their Consent is such a *sine quo non*, that no Minister should be settled without it, doth appear to have been a very early Principle of the Church of *Scotland*; as first Book of Discipline, Chap. 4. § 2. *It appertaineth to the People, and to every several Congregation, to elect their Minister.* § 4. *Altogether this is to be avoided, that any Man be violently intruded and thrust in upon any Congregation; but this Liberty, with all Care, must be reserved to every several Church, to have their Votes and Suffrages in the Election of their Ministers.* And, as to the second Book of Discipline, Chap. 3. § 4, 5. I have quoted that already. By an Act of Assembly 1562, *All Ministers who have not been presented by the People, are inhibit till further Trial: The General Assembly, at Perth 1597, doth forbid the chusing of Ministers without the Consent of their own Flocks.* And the Assembly 1638 doth enact, *That no Person be intruded into any Office of the Kirk, without the Consent of the Congregation to which they are appointed.*

QUEST.

QUEST. VIII. *What should be the Inconveniencies of turning the Overture into a standing Law?*

Ans<sup>w</sup>. 1. **S**UCH a Way of modelling the Election of Ministers, is to depart from the New-Testament Rule, and to establish a humane Device as the Rule; which is the more unbecoming in the Church of *Scotland*, which hath so long wrestled against the Inventions of Men.

2. It is not only a humane Device, but such a Device as is not framed according to what the Members of a Society may reasonably claim. And there is this obvious Inconveniency in a humane Device, that it cannot answer to every Time and Place, even without extraordinary Emergents: But the Word of God, as it should be our alone Rule in this Matter, so it can suit with different Times and Places. There may be a Church where there is neither Heritor nor Elder; in that Case the Right of Election must be in the People's Hands, and no Reason can be given of taking it out of their Hands where there are Elders.

3. If the Overture should be turned into Act, in many Places the People should have no Election at all, no personal Suffrage, this is denied them by the Overture; nor Choice by their Representatives, because in many, yea, in most Parishes (for ought I know) the Heritors are more numerous as the Elders: So that in all such Parishes the Heritors have the Power in their Hands of determining the Election. As for Example, there are in a Parish a Dozen of Elders, who represent Two hundred Heads of Families; there are Twenty Heritors who elect with the Elders, but the Twenty Heritors being supernumerary to the Twelve Elders (according to the *Overture*) carry the Election against the Elders and Parisoners; and it may fall out, that there are not Three of these Heritors residing in the Parish. I need not stay in shewing the absurd Consequences of such a Method of Electing, they are obvious. 4. In sundry Pa-  
rishes

rishes the Heritors who are disaffected to Kirk and King, are more numerous as the Elders and well-affected Heritors put together: But, according to the *Overture*, the disaffected Gentlemen, being the Majority of the conjunct Meeting, do carry it against the Elders and well-affected Heritors. And how this will contribute for the Security of Church or State, needs no Commentary.

5. In Parishes where there are no Elders, either the People give their Suffrage, or Elders must be ordained before there be an Election. If the People vote *per capita*, where there is no Eldership, and if the Heritors be on an opposite Side to them, *Whether will the Heritors Election carry it, or the Peoples?* If the Heritors Choice shall carry it, then the People have no *Consideration* at all, neither personally nor by Representatives, which I think will make the *Overture* ridiculous enough. But it may perhaps be said, *No Election is to be made till Elders be chosen*; Now, will this be able to divest the *Overture* of its ridiculous Dress? I am sure not; it serves rather to represent it as more ridiculous: The People chuse Nine or Ten Elders, there are Twelve Heritors which carry the Election from the Elders; but when there were no Elders, the Heritors lose the Cause, if the Election of the People be sustained against a few Heritors, as in Reason it should. I have heard many Objections against Lay-Elders; but, if People can make no more of them than to lose a valuable Privilege, or a Minister they would incline, I would think they would be glad not to have such *Representatives*. But then, if there must be an Eldership established, before a Minister can be elected, Who chuses the Elders? *Answer*, The People. For what End do they chuse them? *Answer*, To represent them in the Election of a Minister. But the Heritors will overbalance the Elders? Chuse Elders supernumerary to the Heritors. But we have not so many valuable Men to chuse. Then it must land in this, to open a Door for introducing unworthy Persons into Ecclesiastick Offices. All this concerning Elders, and their Election and Establishment before there can be an Election of a Minister, shews, That the Power of electing a Minister is originally in the People. Now, I shall be obliged to any who will shew  
me,



me, when that Power was taken out of their Hands, and given to such *Representatives*.

6. The *Consideration* given to Heritors in the *Election* of a Minister, according to the *Overture*, is to bring the Lord's People *under a spiritual Vassalage*; to give them a Power over them in their *spiritual Rights*, as they have it over them in *temporal Respects*.

7. If this *Overture* should be enacted, when an *Election* is set about, the Heritors fall a questioning one another's Rights; and he who hath the wrong End of the String speaks bold, with some apparent Probability. What shall the Church do in that Case, when the Title of Electors is not clear? I am afraid their Great Master, who declined the being a *Divider of Inheritances*, hath not empower'd them to call for the Gentlemens Charters; and if they should take this upon them, the Civil Judge would claim the decisive Capacity in a Matter of this Kind: So that, upon a Controversy's arising, we must go to the Civil Judge, to determine who hath Right to *elect* a Minister. It is not like, that he who said, That his *Kingdom was not of this World*, would send his Church to the Powers of this World to enquire into the Character and Title of them who should elect Ministers.

8. If the *Overture* shall be turned into Act, the Patron's Concern and Interest is asserted, the *Overture* appointing to proceed when applied with the Consent of the Patron, and others concerned. Now, whatever Interest or Concern the Patron may plead in Point of Law, yet the Principles of this Church have ever been, that the Interest claimed by Patrons is a Grievance, and that Patronages have no Foundation in Reason or in the Word of God: Posterity may judge by this Regard to the Patron, that it was a Principle of the Church of *Scotland*, that the Patron had a Title to be a Consenter or Dissenter in supplying a vacant Church. Sure I am, whatever he may claim by the Laws establishing Patronages, he hath no Concern by our Principles, and therefore the mentioning his Consent is of the most dangerous Consequence to the present and succeeding Generations.

9. If the Patron's Consent be necessary for moderating a Call within the six Months of his subsisting Right, his Con-  
sent

sent to the Election made within these six Months, may be pleaded as equally necessary; so that the Overture makes the Patron's Consent to a Settlement necessary, or a *sine quo non* to the Settlement; and the current Decisions of this Church, where the Presentation is, tho' even Heritors and Elders be wanting, confirms this Way of understanding the Overture.

10. The Overture, if turned into Act, will open a Door to *Simoniackal* Entries into the Ministry: The Heritors to obtain the vacant Stipend, Tacks of Tithes, or other Favours that depend upon the Patron, will be brought to bargain with him for their Votes, in order to support his Presentation; as in a famous Process the former Year, in which the Heritors of a certain Parish gave it as a Reason for suspending a Charge from the pretended Patrons, that they were promised the vacant Stipend, if they would call the Presentee.

11. Another Inconveniency, if the Overture be turned into Act, is, It shall be in the Power of Heritors to prolong the Vacancy; for the Overture puts the Power into the Hands of Heritors and Elders, when the *jus devolves* on the Presbytery: So that the *jus devolutum* is taken away. A Presbytery cannot proceed within six Months after the Vacancy, without the Consent of the Patron; and, after the six Months are run out, they can't proceed without the Heritors and Elders, tho' the whole Parish should never so earnestly desire to have a Minister settled. So that the Overture not only countenances and confirms the Patron's Title, but also, when his Months are elapsed, doth establish new Patrons, with an indefinite Power as to Time, so that the Church shall never be settled till the Heritors and Elders please; yea, tho' all the Elders and People be earnestly desiring a Minister, if there be but one Heritor more in Number as the Elders, the Election cannot obtain till their Time. And that which makes the Matter yet more grievaminous, tho' all these Heritors were Non-residenters, or were all *Jacobites*, disaffected to Kirk or State or both, till they be pleased a Presbytery cannot proceed to settle a vacant Church. It will not remove this Inconveniency to say, That, if Heritors will not elect, the *jus devolutum* takes Place: For Heritors may elect, but such as  
after

after all Endeavours may not be had ; and, when that Process is ended, they may commence a second, a third, and I know not how many, that, if the Overture obtain, it shall not be in the Church's Power to determine when a Vacancy may be settled.

12. Another Inconveniency, if the Overture shall be turned into Act, is, That many Presbyteries will not regard it, as not being agreeable to the Word of God, as being contrary thereto, and prejudicial to the Rights of Christian Societies : And tho' the Heritors shall obtain their Man, and get extraordinary Committees to ordain him ; yet, what Disorder, Confusion and Discontent will this bring into the Church ?

13. If the Overture obtain, Ministers shall be thrust in on Christian Congregations against their Will, and the Credit and Success of the Gospel shall be marred : For, were *Beelzebub* mustering up all his hellish Policy to obstruct the Success of the Gospel, and to catch Souls, sad Experience shews us, that none of his Devices are more effectual for this End. When Pastors and People are not joined together in Love and Desire, what Delight have they in one another ? how unacceptable are the Pastor's Ministrations ?

14. If the Overture shall be turned into Act, and if according to it Elections shall be carried on, we do therein symbolize with the Corruptions in Elections, which obtain among Papists and in the Church of *England*. Bishop *Burnet*, in his *Regale*, tells us, p. 191. " That, after the 12th Century, People had no other Share in Elections, but that they met and applauded the Choice which the Clergy had made." It would seem, the Framers of the Overture had looked to this Time and Practice. But, that we may have a clearer View of this Matter, I shall transcribe two or three more Sentences the Bishop adds, which I think are so much the same with what seems now to be driven at by the Overture, and our many melancholly Decisions, that the Words apply themselves : He tells us, " The Popes were no doubt willing to bring the Elections wholly into the Hands of the Clergy, and Princes likewise were not unwilling to take it out of popular Hands ; so of all Sides they were

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forfaken: And it grew alfo to be generally received  
 “ that, inftead of the whole Clergy, only thofe of the  
 “ Chapter did choofe; and, inftead of the Concurrence  
 “ of the People’s Suffrage, there was only a Publication  
 “ made of the Choice in which the Chapter had agreed,  
 “ in order to have the Peoples Approbation.” By this  
 it appears, that the Overture hath no Precedent earlier as  
 the 13th Century; but it is of fuch a complex Nature,  
 that we muft defcend lower to find out Precedent for  
 fome Parts of its Frame. It appoints us to proceed with-  
 in fix Months after the Vacancy to moderate in a Call,  
 where there is the Consent of the Patron; that is, If the  
 Patron give Leave, the Church may exercife its Power and  
 Right. Upon this I fhall tranfcribe, from *Grey’s System*  
 of *Engliſh Eccleſiaſtical Law*, the Manner of electing Bi-  
 ſhops, Page 31. *The King grants Licence to the Dean*  
*and Chapter to proceed to the Election.* According to  
 the Overture, the Patron conſents that the Presbytery,  
 Heritors and Elders proceed to the Election. Every one  
 knows what a Creature of the Magiſtrate the Church of  
*England* is, and our Overture makes the Church a De-  
 pendent on the Patron: And as, in the Election of the  
 Biſhop, there goes along with the *Conge d’Eſlire* a Letter  
 miſſive, containing the Name of the Perſon whom they  
 ſhall elect and choofe; we fee what comes of the Patron’s  
 Conſent, or his giving Leave to proceed to a Moderati-  
 on; he takes Care that his Man be recommended: So  
 that in Effect, tho’ there be the Face and Form of an E-  
 lection, the Freedom and Liberty of it is taken away.

But, having given ſome Hints at the Inconveniencies  
 and bad Conſequences of the Overture its being enacted,  
 I ſhall take a View of the alledged Conveniencies; As,  
 1. The Heritors pay Stipend. 2. They are Men of In-  
 fluence in the Pariſh. 3. They have a more fixed Reſi-  
 dence in, or Relation to the Pariſh as the People. 4. If  
 there be not a Regard to the Concurrence and Conſent  
 of the Patron, he, having the Laws on his Side, may in-  
 volve and perplex the Settlement by a Preſentation.  
 5. The Elders their voting as the Peoples Representatives  
 ſhall prevent the Confuſions, Diviſions, and Heats, that  
 uſe to be in popular Elections. 6. We ſhall have a cer-  
 tain



tain Rule, according to which to proceed in the Election of Ministers; whereas now we have none: And tho' there should be some Inconveniencies in the Rule, yet better have it as it is, than want one altogether. 7. That, considering what are the Laws of the Land, our Acts should have these in our Eye, so as to conform to these as much as we may; for it is inconvenient to do otherwise.

These are the most notour Pleadings for the Overture that I have been able to gather: If there be any secret Articles, I may not be positive upon these; tho' truly, considering the Structure of the Overture, and the Conduct of our Church-managers in the many lamentable Decisions in the Settling of Churches, there is Cause to suspect some Sub-auditors in, or secret Reasons for, the Overture.

As to the first Reason for the Overture, namely, *The Heritors pay the Stipend; therefore they, and not the People, are to be Electors.* It is ridiculous to plead it: For, 1. Tho' Ministers Stipends come through their Hands, yet they come not out of their private Pockets or Estates; when they buy their Land, they buy not the Stipend. Ministers have their Stipends out of the Tithes, and the Law of the Land hath established these as the Church's Patrimony. 2. Instances can be given of many Parishes, where Heritors pay no Stipend to the Minister; so that, upon the Payment of Stipend, such Heritors have nothing to say in the Election of Ministers for such Parishes. 3. Instances can also be given of Ministers who have Stipend paid from other Parishes, as their own; so that, upon the Score of paying Stipend, the Heritors of one Parish should vote in the Election of a Minister to a Parish where they have no Heritage. 4. A great Part of many Stipends are paid by Vicarages or small Tithes, and that by the People according to their Flocks; so that, upon the Footing of paying Stipend, the People who make such Payments ought to have a Vote. 5. If the Paying of Stipend give them such a distinguishing Character, then Papists may claim the same Right. 6. By this Argument from Payment of Stipend, the Patron's Pretensions are supported: For, if the Heritors who pay the Stipend, but are not the Donors, on this Footing have a

distinguishing Title in the Election of a Minister ; much more the Patron, who pretends to have built, doted or endowed the Church. But the Argument from the Payment of Stipend is good for neither : Tho' really the Overture gives the Patron a transcendent Consideration, and, after his Right is elapsed, establisheth a new Patronage with less Restriction and Limitation as what the Patron is under, he hath but six Months for his Usurpation ; but, after the Elapsing of his Months, the Electors established by the Overture may play the Tyrants to the End of the Chapter.

As to the second Reason for the Overture, *That the Heritors are Men of Influence in the Parish ; therefore they are to have an elective Capacity distinct from the People.* I answer, 1. That it is not to be refused, but Heritors may by their Influence do much Good or Harm in Parishes ; but then this argues against the Overture, which makes no Distinction of Heritors, whether they be Enemies to the Church, or Friends to it ; the Privilege is allowed to Heritors, without any other Limitation than that of their being Protestants. Now, let us see how the Argument from the Heritors being Men of Influence will sometimes run. Such and such Heritors are *Jacobites*, and profess Enemies to this Church, and they habitually dishaunt Ordinances dispensed therein : But they are Men of Influence in the Parish : Therefore they must be proper Electors of Ministers. What a fine Argument is this from Influence ? The Argument from Influence, if it be of any Force, it is when the Influence is upon the Church's Side, and not against it. 2. If these Gentlemen of Influence be Men of real Worth and Merit, they will never suspend the proper Use of their Influence, because they cannot get others deprived of their Privileges, and a Monopoly made of their Rights : If they be such as are only disposed to use their Influence to the Advantage of the Church, upon Condition of their being granted such an Interest in the Election of Ministers, there is just Cause to suspect that the Manner of using their Influence will be, as their Humour and Ambition is gratified. 3. If the Argument from the Influence of Heritors have any Thing in it to support the Overture, then it is not a Majority  
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of Heritors that often, yea for ordinary, must cast the Balance; the decisive Stroke must be on the Side of them who have most Rent; so that one Heritor's Vote may overbalance Fifty, because he hath Ten thousand Merks of the Parish, and the Fifty have not Five among them all; so that the Overture is like to begin our Disputes, rather than end them.

As to the third Reason of the distinguishing Regard given to Heritors in the Election of Ministers, founded upon this, *That they reside longer in Parishes as other Persons do.* The following Things may be answered; 1. This Argument might be thought to have something in it, if Heritors were longer-lived than others; but this they do not pretend to: Whatever Privileges they may claim, yet, in the Matter of Life and Death, they must come in, in the common Reckoning, *That all Flesh is Grass.* 2. The most of Families reside as long in Congregations without flitting, for ordinary, as is the Time of a Minister's Settlement among them. 3. Many Families, and their Ancestors, have been longer in Parishes, than Heritors, or their Children, have possessed some Estates. 4. Altho' Tenants should sooner remove, that is no Argument for depriving them of their Suffrage in the Election of a Minister. In a City, the poor Burgesses are not deprived of their Rights, because they may sooner remove from the City; so no more should the poor Believers. 5. This Argument will say nothing for non-residing Heritors, some of whom cannot dwell upon their Interests, unless it be on Crive-walls, and aboard of Salmon Boats. 6. The Elders, as Representatives of the People, are allowed to vote. Now, What Security have the Elders of a longer Residency in the Parish, as their other Neighbours? So that we see how ridiculous the Argument is from long Residence.

As to the Reason for that Part of the Overture which respects the Consent of the Patron, *That this should be, because he, having the Laws on his Side, may involve and perplex the Settlement by a Presentation.* I answer, 1. This supposes that the Presentation is completed; that is, hath its legal Force by an Acceptance; for the Church is in Hazard of no Inconveniency by a Presentation

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son, if there were no Acceptance ; so that they who make the Consent of the Patron so necessary in proceeding to settle a Vacancy, at the same Time do not discourage Acceptances : For, if we be involved by Presentations, the Presentee is faulty as well as the Patron ; for it is in the Power of the Presentee to prevent any Trouble to the Church from a Presentation, or that the Church should have any Dependence upon the Patron. 2. This of the Consent of the Patron to the Moderation prevents no Inconveniency, but rather brings forth one ; for, if the Patron be not under Ties not to oppose the Settlement of One who shall be sustained elected, the proceeding to moderate a Call with his Consent, is to give him an Opportunity of exercising his Right, under a Pretence of saving the Church's Liberty. 3. If the Consent of the Patron be established in our Acts, whatever fair Glosses may be put upon that now, How shall Posterity be able to judge of the Principle of this Church, with respect to Patronages, when they read this Act, especially that the Overture considers the Patron as One concerned, when it says, *With the Consent of the Patron and others concerned ?*

As to the fifth Conveniency alledged to be in turning the Overture into an Act, namely, *That the Elders their voting as the People's Representatives, will prevent the Confusions, Divisions and Heats, that use to be in popular Elections.* The following Things may show the Weakness of that Reason : 1. The Title and Character of the People who should vote in the Election of a Minister can be sooner decided than the Title and Character of Heritors : Apply the Characters I have given of them who should be allowed to chuse a Minister ; the Elders can testify if they be Persons so qualified ; and this is properly the Elders Work, to inspect the Manners of the People. 2. Confusions and Heats, in this Matter, do either arise from Opposition to a Minister, or from a tumultuary Manner of Election. If from the first, the Heats and Divisions will not be the less, that they are refused a Vote ; for, if a Minister be thrust in upon a Congregation, there is more Hazard of Heats and Divisions, than if they were allowed to vote in the Election ; for, if they be allowed to vote in the Election, they may divide



in their Choice : But, whichsoever of the Choices obtain, these Electors will adhere to him who is elected, if he be settled among them : But, if the People be not allowed a Suffrage, the Whole, or far greater Part of them, may be against the Man that is chosen and admitted ; and so the Opposition shall be infallibly greater, than if they were allowed to vote. As to Election by the People, its being tumultuary, I may observe, 1. This Objection is not moved against Heritors and Elders, which are more numerous in some Parishes, than the Heads of Families are in others. 2. If the Characters of People electing were once determined, there is no Hazard of Tumult ; for it is not because there is a Multitude, that there are Tumults, but because the People keep not Rule : If they act according to Rule, there is no Tumult ; if they act not according to Rule, neither let them or Heritors either be regarded. 3. Daily Experience shews us, that the Contentions that arise about Elections of Ministers flow for ordinary from the Claims of Patrons and Heritors, the One pretending this Right, and the other that Right, and neither so very cognoscible by the Judicatories of the Church ; and all the Claim of the poor People is, that they may be allowed to vote ; and their Opposition arises from this, that they are in Hazard of having a Minister thrust in upon them. 4. In a great Part of the Parishes of the Nation the Heritors are supernumerary to the Elders ; so that the Elders, for themselves, or for the People, are but Cyphers in the Election, unless the Overture were so contrived and expressed, as that, without a Majority of the Elders, there should be no Election. 4. Seeing that it so happens, and we are told from the Word, *that Divisions must needs be* ; I ask at any, Whether it be easier that the People are divided in their electing a Minister, or that, being denied an elective Capacity, they be divided from the Man elected by Heritors and Elders ? When we are in Hazard of one, of the two, which of them is the lesser Inconveniency ?

As to the sixth Reason for the Overture, namely, *That we shall have a certain Rule according to which to proceed in the Election of Ministers, whereas now we have none ; and tho' there should be some Inconveniencies in the Rule, yet better have it as it is, than want a Rule al-*

together. I answer, by asking, 1. At any Man, Had not this Church a Rule from the Reformation to that woful Catastrophe upon the Restoration of King *Charles* the second? 2. I ask, If this Rule was not different from that laid down in the Overture? 3 I ask, If the Rule in our Books of Discipline, and in the Act 1649, as the same was then understood, and expounded by the Divines of that Time, be not more agreeable to the Word of God, as the Rule proposed by the Overture? 4. I ask of them, who say we have no Rule, If the Rule laid down in our Books of Discipline, and Act 1649, was ever repealed? And, if never repealed, why do any alledge that we have no Rule? 5. I am surprized to find some saying, we have no Rule. Is there not a Rule in the New Testament? Indeed, if there be no Rule there, the Church may contrive a Rule; but, according to the Overture, the Security of the Church, and the Privilege of its Members, is not consulted. Upon this, I would offer this Consideration: Either we have a Rule in the New Testament how to proceed in the Election of Ministers, or we have none. That we have none, I hope, no true Son of the Church of *Scotland* will say: If we have a Rule in the New Testament, either the Overture is it, or it is not. That the Overture is it, I defy all the Art of Man to make that out. If it be not agreeable to the New-Testament Rule, what have we to do with it? Are we to set up our own Invention, which we know is not in the Word of God, especially when we are perswaded that there is a Rule in the Word of God, and that the Overture is not the Rule? If we be dubious about what is the New Testament Rule, were it not better we brought our Rule as near to the Word as our Light can go, than that we should establish any Thing as a Rule, or Part of a Rule, that we know, and agree in, to have no Foundation in the New Testament? 6. I suppose they who say, Better have a determined Rule, than want one, mean, that it is better we should be astricted to one uniform Method of electing Ministers, tho' the Method should be inconvenient, than that there should be so many Contentions about Calls. But will the Overture, tho' it were turned into Act, universally bind the Members of this Church?

The Assembly, that would enact it, are not able to prove it to be founded on the Word of God; and therefore they must fall in with the *English Church*, before they can appoint it to be observed under Pain of Censure; for the Principle of the Church of *Scotland* is, That, what is not agreeable to that Word is not binding: So that, instead of establishing a certain Rule, we shall get the one Part of this Church censuring the other for not obeying their Acts, and the other Part refusing Obedience, because these Acts have no Warrant in the Word of God, which hath directed us how we ought to proceed in the Election of Church-officers.

As to the seventh Reason for the Overture, namely, *That, considering what are the Laws of the Land concerning the Settlement of Churches, our Acts should have these in our Eye, so as to conform to these, as much as we may; for it is inconvenient to do otherwise.* The following Things may be said, 1. I am afraid they who reason after this Fashion, are not well enough aware of the Consequences; for, if the Church should proceed in this Way, we shall very soon resolve our Ecclesiastick Government into the Will of the Magistrate. 2. I have distinguished betwixt the Church their proceeding according to any Remain of Liberty, and their laying down such a Method as a standing Rule. If the Church shall be hindred from proceeding according to the New-Testament Rule, or in an exact Conformity thereto, they are not yet to pass an Act establishing that as a Rule that agrees with the Restriction of their Liberty, but not with their Principle. 3. All that could be said upon this Argument for the Overture should only be, to make it an Interim, and not a standing Law; but no Reason can be given, why it should or can be an Interim, because it is not framed so as to ease us of any greater Grievance; it hath no Tendency to remove Patronages, but, instead thereof, ratifies and confirms it, during the Subsistence of the Patron's Months; and, when these are elapsed, substitutes another Patronage in the Hands of Heritors, with an indefinite Power as to Time. 4. The Overture itself bears, That it is designed only to remedy Divisions in Presbyteries in the Method of proceeding to elect Ministers,  
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and so doth not prevent any Inconveniencies sustained by the Laws concerning Patronages; so that it should have been adverted to, if the depriving of the People of a Vote in the Election of a Minister, or the giving the Heritors such a distinguishing Consideration, or the acknowledging the Patron as one concerned in the Election of a Minister, was the Way to remedy Divisions on this Head. 5. If it be inconvenient to make a Law different from, or opposite to, the Laws now in Being, concerning the Election or Settlement of Ministers; I ask, if it be not better to run the Risque of all the apprehended Inconveniency, than to establish a Rule which we see is not the Rule in the Word of God? 6. This Argument for the Overture can only respect the Patron's Consent, and not the Election by Heritors and Elders; for, if our Acts upon the Head of settling of Churches keep the Laws of the Land concerning these in our Eye, we have no Business with Heritors and Elders, because the Act of Parliament 1690, concerning their Title in this Matter, is repealed by the Act *decimo Annæ*, restoring Patronages: So that they who would keep the Laws in their Eye in framing an Act concerning the Election of Ministers, must make the Stress of their Act to ly upon the Concern and Interest of the Patron in this Affair.

It will not do to say, That if we would wish to get free of Patronages, it is needful that the Overture be turned into Act, that these who would plead for Patronages, may see what we would put in their Room. For, 1. The Overture includes a Respect to Patronages, and acknowledgeth the Patron's Concern, and so cannot be a Remedy of that Grievance, nor a Substitution of something in its Room. 2. Altho' it were so conceived, as to make no Mention of the Patron, or Acknowledgment of his Concern; yet it is an improper Remedy, astaking away the *jus devolutum* and putting it in the Power of Heritors to protract a Vacancy at Pleasure. If any Remedy of the Grievance of Patronage, or Substitution in its Room were designed, I am sure the Act of Parliament 1690, which was repealed by the Act *decimo Annæ*, restoring Patronages, is far better conceived as the Overture, and hath a greater Respect to the Privileges of the



Church, tho' it also is liable to many just Exceptions.

3. In the Year 1649, when the Civil Powers abolished Patronages, they first relieved the Church of that Embargo, and then desired that they would lay down a Rule: So that, if the Church were to act freely, they are first to be relieved of a Grievance, and then to act as God's Word directs; but, if we cannot be relieved of a Grievance now, without a bartering Accommodation, it is more eligible, that the Church should improve their remaining Liberty, growing under Disadvantages, till the Lord open a Door of Relief, than that by any Act or Statute they should give up with their Rights, or determine any Thing detrimental to the Rights of any of their Members.

*QUEST. IX. Doth the Overture shew such a Regard to the Consent of the Congregation, as is agreeable to the Principles and Acts of this Church?*

*Ans.* **T**HIS cannot be said; for, 1. Whatever Regard is given to, or Power is lodged in, the Eldership by our second Book of Discipline, and by the Act of Assembly 1649, yet there is not any other Power in Distinction from the People brought in by these, as in the Overture. The Elders were then thought, and will be yet thought, in so far as they are Representatives, to represent the rich as well as the poor Christian; for Heritors, as such, are not Members of Church-judicatories more than the Tenants; and the Reason is obvious, the Elders are Church-officers representing the Christian-Societies: So that, supposing the Elders have a representative Capacity in the Election of a Minister, the Landlord is represented as well as the Tenant; and to take in the Heritor and exclude the Tenant, when at the same Time the Elders representative Capacity is asserted, may land in the Heritors as such, their claiming a Right to set in Church-judicatories. 2. Our Books of Discipline and Acts of Assembly, make the Consent of the Congregation

on, or of the major or better Part, necessary to the settling of a Minister ; and, tho' the repealed Act 1690 takes in Heritors and Elders as Electors, yet it also hath a Respect to the Consent of the Congregation : But the Overture hath no Respect to the Consent or Acquiescence of the Congregation ; it only gives them a Title of approving or disapproving the Man, that is, of objecting against his Life or Doctrine ; now, they may have nothing to say that Way, and yet the Man elected by Heritors and Elders may not be their Choice. I have already shown that the Divines, in 1649, so interpreted the Consent or Dissent of the People, that if they inclined not the Elders Choice, but another unexceptionable Man rather, that was Ground to cast the Man chosen by the Elders : For, say they, if they have only a Privilege of objecting against Life or Doctrine, there is no Privilege in this, but what any Man, who is not a Member of the Congregation, may claim, and will be allowed ; so that, unless the People can libel the Man elected by Heritors and Elders, he must be, according to the Overture, palmed down upon them, whether they incline him or not.

QUEST. X. *Have Ministers or Probationers any Encouragement or Direction by the Overture to accept of Presentations ?*

*Ans.* I think they have Encouragement from the Overture to accept of Presentations, because,  
1. In Case the Moderation of a Call should be set about within six Months after the Vacancy, the Overture determines the Consent of the Patron needful, and acknowledgeth his Title as one concerned ; and, when his Consent goes along, very peremptorily appoints in the following Words, *That Presbyteries shall forthwith proceed to the planting of the vacant Charge, without putting off till the six Months be elapsed.* Now, when Heritors and Elders, with Consent of the Patron, apply for a Moderation, and the Patron is acknowledged as one concerned ; What remaineth for Ministers and Probationers

to judge, but that they may accept of a Presentation from him whom an Assembly of the Church acknowledges expressly to be one concerned in the Application for supplying the Vacancy ? 2. The Overture recommends to all *Ministers and Preachers, to take Care they do not encourage or go into any Method for planting vacant Churches, contrary to, or inconsistent with, this Rule ;* that is, If a Call be moderate within the six Months after the Vacancy, they be sure to have the Consent of the Patron before they fall in with the Call. Tho' the whole Parish should be for a Man, if the Heritors and Elders, and Patron, concur not, they are not to have any Business with the Affair ; hereby they are pretty expressly directed to accept of Presentations. 3. It will not do here to say, *That there is no more meant by the Consent of the Patron, but that he allows Heritors and Elders to proceed within his Months to elect, tho' the Law denudes them of that Privilege.* For this is no Advantage to them, unless the Patron accept of the Man the Heritors and Elders shall chuse, If they elect not whom he inclines to present, as long as his Months are not elapsed, he is at Liberty to present whom he pleases ; and, according to the Overture, the Persons presented may accept of his Presentation, because he is one so specially concerned, that his Consent is established as a *sine quo non* in the Election. If it be said, *O but they are to have nothing to do with his Presentation, unless the Majority of Heritors and Elders concur ;* This is still a broad Direction and Allowance of Patronages with certain Limitations ; whereas, I have shown from the Principles of this Church, and the Doctrine of eminent Presbyterian Divines, that Patronages cannot be so limited as to be lawfully exercised. 4. When the Parish is in Hazard of being trepaned by the Patron, under a Pretence of allowing them a free Election, were it not better a Delay were made till his Right were run out, and then sound the Inclinations of the Parish in the most proper Way ; but to appoint the Moderation of a Call within the Patron's Months, is to give him an Opportunity of presenting, under a Pretence of allowing an Election ; and to own his Concern, is to warrant that

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acknowledgment that is made of his Concern by accepting his Presentation.

QUEST. XI. *Seeing Presentations have no Force in Law, unless accepted by the Presentee, might we not rather expect an Act of Assembly against Acceptances? Or, why have we no such Act?*

Ans<sup>w</sup>. COnsidering the Advantage given us by the Act of Parliament 1719, by which a Presentation is of no Force in Law unless accepted, what remained for this Church to get rid of the complained-of Grievances, but to discharge all Ministers and Probationers from accepting? And that this hath not been done, is owing partly, 1. To this, that the several Presbyteries in the Nation have not so urged this Affair, as they ought to have done. When People are not themselves troubled with Presentations, they are not so warmly affected with the Distress that many Corners of the Church are in upon Account of them. 2. There have been, and are, so many scandalous Party-projects and Designs in the Settlements of Churches, that for promoting these Ends, and the pleasing of great Men, any Complaints against Acceptances are so far from being regarded, that the Accepters are supported, and particular Presbyteries, that would censure the Accepters, are disapproved. 3. Churches are now so commonly planted by them who make their Entry by Presentations, that we see how much those Persons presented are bound to a slavish Dependence on the Patron, and how much they study all they can to support and maintain the Patron's Interest. 4. It is pretended, tho' without any Ground, *That to make an Act against Acceptances, would be a flying in the Face of the Law establishing Patronages*; A poor and silly Pretence. The Law hath put it in our Power to render a Presentation void and null, but yet we will not exert that Power. But this bringeth forth another Question, viz.

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QUEST. XII. *If the Assembly's Overture making Heritors and Elders Electors of Ministers were turned into Act, would it not be a flying in the Face of the Law?*

Ans. 1. **I** Grant there is an Act of Parliament in 1690, giving the Heritors a distinguishing Capacity in the Election of Ministers: But what is become of the Church of *Scotland*, either as to her Belief of the Word of God as the Rule in this Matter, or as to her zealous Defence of her justly claimed Privileges, when Civil Laws must be the *Measure* and *Directory* of her *Acts*, or she will not pass an Act agreeable to her own Principles, unless the Laws so permit? If we had been always so prudent and cautious, I question very much if we had been any Church this Day.

2. Tho' the Act 1690 were now a standing Law, yet this *Overture* is not altogether agreeable thereto: It regards the Consent of the Congregation and the Session, which I think will be found to be the Majority of the Elders, their Votes must be had; but the *Overture* makes the Heritors and Elders as a conjunct Body: So that, if the Heritors be supernumerary, the Elders are but Cyphers, the Session signifies nothing.

But, 3. Tho' the *Overture* were to a Word conform to the Act 1690, yet the Act 10mo *Anna*, restoring Patronages, repeals that Act, as what had occasioned Heats and Divisions: So that to make an Act on the Footing of the Act of Parliament 1690, is a double flying in the Face of Law; the *Overture* is not exactly agreeable to the Patronage Act, but is pleaded to be the same with an abrogated and repeated Act.

4. It might be thought, that when the Church is under a Necessity of proceeding in a different, yea, in an opposite Course to some humane Laws, if they ever be careful to act in a Way agreeable to the Dictates of their Great Lord and Master, it should be then: For, no humane Device (as is the *Overture*) can be of sufficient Weight to vindicate the Church, when acting contrary

to a standing Civil Law ; but, when the Church keeps by the Word of God as their Rule, this will answer all Challenges as Transgressors of humane Laws ; and they can ask with Confidence, *Whether it be better to obey God than Man?* Or this will intitle the Church to that Grace which will support when suffering as Transgressors.

5. As the *Overture*, is a flying in the Face of the Law, for the Substance of it, being modelled according to the repealed Act 1690 ; so it is without Ground to say, *That an Act against Acceptances would be a flying in the Face of the Law.* This cannot be, unless the Patronage-Act commanded and appointed Acceptances ; but no such Thing is done : Therefore an Act against Acceptances would be no flying in the Face of the Law, but a reasonable Improvement of the Advantage the Law hath given us. But I am afraid, if the *Overture* be turned into a standing Act, the Contrivers of it will find out a *Sub-auditur* in the Act, or a secret Article of the Treaty, by which to accomplish their Projects, and to reconcile the *Overture* with their groundless Reasonings about the flying in the Face of Law ; and it may be this, That without the Consent of the Patron Church-Judicatories shall not be allowed to proceed : So that for all the just Exceptions against the *Overture*, as making Heritors and Elders Electors, the Matter is like to resolve into the Patron's Hands. Thus the Contrivers of the *Overture* may may find a Way, tho' to the Ruin of this Church, to defend themselves against a Charge of *flying in the Face of the Law.*

QUEST. XIII. *Was ever any Overture of this Kind transmitted to Presbyteries before now ? Or, is this Overture clothed with all the Advantages of any former of this Kind ?*

Ans. 1. **I**N the Year 1705, we find a Transmission of a great Body of Overtures, among which  
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is the Method of electing by Heritors and Elders ; but these Overtures as yet have been laid aside. 2. In the Years 1719 and 1720, these of the larger Overtures that concern Church-lessons and Presbyteries were transmitted; yet, for all the Amendments they got in 1720, the Assembly 1721 thought it inconvenient to turn them into Acts. 3. In the Year 1711, there was a particular Overture concerning the Planting of Churches, *tanquam jure devoluto*, transmitted; but nothing done upon it, that I remember, till the Year 1719, that it was transmitted *de novo*: But, the Presbyteries returning their Exceptions against it Anno 1720, the Assembly that Year re-transmitted it, with this Correction and Limitation concerning Heritors, *viz. That they be well affected to the Government of Church and State*. Notwithstanding of all this Correction, the Plurality of Presbyteries excepted so much against it, as that the Assembly 1721 laid it aside, as inconvenient to be put into Act, tho' really the Overture was then in better Circumstances than what it is now: For, 1. The Heritors who were to be regarded were such as stood well-affected to the Government of Church and State. 2. The Overture had then no Regard to the Consent of the Patron, as now; nor were Presbyteries appointed to proceed during the Patron's six Months, which can have no better Consequences than the involving them with the Patron, or the making the Settlement to depend upon the Patron's Consent. 3. The Overture, as it stood transmitted in 1719 and 1720, appoints, *That the Elders try the Inclinations of the Heads of Families, and Persons of good Reputation in the Parish, and have Regard thereto in the Choice of a Minister; and the Presbytery shall use all Means, both to know the Inclinations of Heritors and People, and to obtain their Consent, before they give a Presbyterial Call*. But no such Respect or Regard is shown the People by the Overture in its present Shape. 4. The very Form of the Call, as it is in the larger Overture, bears, *That the Heritors and Elders have agreed with the Consent of the Parishoners*. But, according to our now Overture, *The Heritors and Elders proceed to elect, and then propose the Man to be approven or disapproven by the Congregation*.

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By the former and the larger Overtures, Heritors and Elders are to proceed with the Consent of the People; but, by the present Overture, no Word of the Consent of the People; but, instead thereof, they are to proceed with the Consent of the Patron. These are pretty considerable Changes to the worse, and yet the Assembly 1721 thought it inconvenient to put these Overtures into Acts; but now it seems some judge it expedient to put an Overture into Act, that is not corrected, but made vastly worse. I know no Conveniency that can now be pleaded for the Overture in a worse Shape, that could not in 1721 be found for it in a better Shape, unless it be the Conveniency of resolving all into the Hands of the Patron, so that some forced Settlements may (as the Style now is) be made the more effectual.

QUEST. XIV. *Is this Overture transmitted in a Way agreeable to the Acts of former General Assemblies, and their Faith pledged thereanent?*

Ans<sup>r</sup>. IT is not: For, 1. By the Ninth Act of Assembly 1697, what is to be a binding Rule to the Church, is to be transmitted first as an Overture before it be put into Act; but this Overture hath the Force of an Act for a Year, before the Judgment of Presbyteries thereupon could be got. 2. It is expressly declared by the 5th Act of Assembly 1721, *That, before this Overture should be turned into Act, it should be again transmitted to Presbyteries.* Now, it is not a little surprising, that when the Assembly 1721 thought it inconvenient to turn an Overture of this Kind into Act, when it was in better Circumstances, that the Assembly 1731, Ten Years thereafter, when every Body will allow the Times to be worse, should give this Overture the Force of an Act for a Year, when both the Times are worse, and the Overture is worse conceived, and several Things are taken in to it of more dangerous Consequences to this Church, than in the Shape in which it was transmitted



ted, Anno 1720, and was rejected as inconvenient to be put into Act Anno 1721.

It will not do here to say, *That the Meaning of these mentioned Acts, is only, that the Overtures are not to be made standing and continuing Laws, till the Judgment of Presbyteries be had upon them, and not that they may not have the Force of an Act, till Presbyteries give their Returns.*

For, 1. It seems very unaccountable, that an Overture transmitted for Advice, if it be lawful or proper to turn it into Act, should have the Force of an Act, till Judgment concerning it be given : If Presbyteries shall return the Overture with this Opinion, that it is unlawful, and is disagreeable to the Word of God, what shall be thought of the Inadvertency of a Church, to give such a Thing a Year's bearing? 2. The Assembly 1721 laid aside an Overture of this Kind, as inconvenient to be turned into Act, engaging to retransmit it before it should be again enacted; and many do think it rash and unfair, to give this Overture the Force of an Act, when it was clothed with more Inconveniencies, and contained in it more Things justly exceptionable. 3. Altho' there were not such an Act as that of 1697, concerning the Method of transmitting Overtures in general, nor such an Act as 1721, relating to an Overture of this Kind in particular; the many Complaints before our Assemblies upon the Head of Patronages, and forced Settlements of Congregations, against the Will of the People, required more Caution and Tenderness, than to make that an Act for a Year, which might give Occasion to so many Debates as do obtain with Respect to Settlements. So that this Overture is conceiv'd in Terms more inconsistent with the Principles of this Church than any of this Kind, and is transmitted in a Way disagreeable to Acts of Assembly, and their Faith pledged in these.

QUEST. XV. *Should this Overture be turn'd into an Act, will it at all remedy the Inconveniencies and Divisions that have arisen, or do arise upon the Planting of vacant Churches, as is proposed thereby?*

Ans. I. THE being united in the Matter of the Overture, would be an Union upon another Footing than Truth, and the Principles of the Church of *Scotland*; so that an Union of this Kind would not answer to the Inconveniency of flying in the Face of our Principles. But, 2. I hope, this Church is not so degenerated, as to fall in with the Overture, or be bound by it, tho' it were turned into Act; so that it will not answer the pretended End of being an uniform Rule. The Patrons of the Overture would have it take its Effect; others think it hath no Foundation in, but is contrary to, the Word of God; therefore the Overture-men will be so good, as to excuse such, who chuse rather to follow the Word of God, than a humane Device. But, I am afraid, if once it be turned into Act, its Patrons will plead it to be a Part of our Constitution; a Word they very often affront, and are zealous to spell and pronounce, when they are taking the most direct Methods to ruine our Constitution. 3. If we take a right View of Divisions, the Overture seems rather to be conceiv'd to increase, than to remedy, them; And this I think will unquestionably appear, if we consider Divisions either as in the Judicatories of the Church, or among the Electors of a Minister, or between the People and the obtruded Pastor. As to Divisions in Church-judicatories, both the Members of one and the same Judicatory will be divided, and Judicatories from one another. As to the Electors of Ministers, they shall be divided as to their several Rights, and Claims, and preferable Titles, especially in the Matter of Heritors. As to the People, they will be divided from the obtruded Pastor; and what will his Ministry do to them, who will not submit thereto? I know 'tis said, *There is no Fear but the People will submit, and they do submit, even where they have been*

*been averſe to the Settlement.* But, as Inſtances can be given to the contrary of this, ſo, where People hear the obtruded Miniſter, it is, becauſe they cannot conveniently attend elſewhere ; and ſtill they have Grudges in their Minds, which they ſcruple not on any Occaſion to expreſs. But there is one ſad Ingredient of Diviſion, or, I may ſay, the very Soul of Diviſion, that will be found the Conſequence of turning the Overture into Act, and that is, the Alienation of Affection that will be among Paſtors, and between Paſtors and their People ; the Patrons of the Overture, and the Promoters of the many woful Settlements that now obtain, being either ſuſpected of Diſaffection to this Church, or as under a woful Neutrality concerning the Interests thereof. So that I am afraid the Overture's being turned into an Act, ſhall be among ſome of the unhappy *Æra's* of this Church, and will never contribute to its Advantage.



Modern Eraſtianism unveiled: .K

OR, A FURTHER

SURVEY

OF THE

*Right of Patronages.* 509. b. 2.  
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IN WHICH

The RIGHTS of the CHURCH, and the  
PRIVILEGES of its Members, in the Call  
and Maintenance of the MINISTRY, and  
and the DUTY of the Magistrate with re-  
spect to theſe, are Cleared and Vindicated  
from the unjuſt Representations of a Pamph-  
let, intituled, *The Right of Patronages*  
*Reconſidered.*

WITH AN

APPENDIX,

CONTAINING

ANSWERS to ſome *Questions* moved upon  
Occaſion of the *Overture* of the General  
Aſſembly 1731.

---

By a Miniſter of the CHURCH of *Scotland.*

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EDINBURGH,

Printed by *Thomas Lumisden* and *John Robertson*, and  
ſold by the Bookſellers in Town. 1732.



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## To the Reader.

*Altho' the following Sheets be of such Extent, as to look blunt without the common Form of a Preface, or Epistle to the Reader; I had possibly forbore that Piece of Ceremony, were it not, that not a few of my Fathers and Brethren in the Work of the Gospel, and they to whom I stand in a Pastoral Relation, have given such Encouragement to the Work, as challenged this Testimony of my Respect and Esteem.*

*A Writer who studies his secular Interest, or the Applause of the degenerate Age, would need chuse another Subject than that which bears a Testimony against prevailing Corruptions. Tho' the following Sheets should be to the Prejudice of secular Interest (to many more valuable than Truth) and expose me to the Reproaches of them who are loosing the Cords and pulling down the Stakes of that beautiful Tabernacle, which God hath erected and continued so many Years among us; He, to whom this honest Endeavour hath been devoted, is able to requite it, and to render into my Bosom double.*

*I expect but small Success or Acceptance with the greatest Part; the Disease is too far gone, to be so easily cured: But, if I could be a Witness against prevailing Defections, or an Instrument of telling the Generation to come, what Hurt is now done to the Church of Christ by*

*many of her unnatural Children, I have not altogether miss'd my End.*

*Some will readily think that I have followed the Reconsiderer too particularly: But his Reconsiderations being a gathering of all the Chant that our modern Eraſtians commonly offer on the Subject of Patronages, and the Accepting of Presentations; that he, or his Confederates, might not think these Things unanswerable, I have therefore been the more particular; which, if it be a Fault, I must give the Reconsiderer the Compliment, that he hath not been guilty of it in his Answer to the Right of Patronages considered.*

*My being so particular in searching into the just Meaning of old Acts of Assemblies, will be the rather born with, that not only the Reconsiderer, but also a later Author, who calls himself a Minister of this Church, in his Enquiry concerning the Power of calling Ministers, hath followed the Reconsiderer in traducing this Church, by his corrupt Glosses on these Acts.*

*What Credit the humble Enquirer hath in following the Reconsiderer, will best appear by the affronted Quotation from Chemnitius, upon which I have shown, that one Renkine a Lawyer wrote so, but not Chemnitius.*

*It will be found, that in the following Sheets, the most of the Enquirer's Reasonings and Principles are obviate; but I expect he will be sufficiently taken up by others, and obliged more fully to account for his departing from the Principles of this Church, in denying any certain Rule in the New Testament concerning the Election of Ministers, and that Deacons are Church-officers.*

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*duly admitted to Churches, have to the Endowment of that Church, and the Administration of the Magistrate in that Affair, are enquired into; In which, an Account of several of the Reconsiderer's Mistakes on these Heads. As also, a Refutation, even from the Ecclesiastical Law of England, of what the Reconsiderer, and others of our new-fashioned Disputants, say concerning the Patronage-right, as if it were a Civil Trust, and their Presentations needful to secure a Minister's Title to his Stipend, p. 124. -*

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Quest. V. *Should any others be allowed to vote in the Election of Ministers, but they to whom these Characters belong?*

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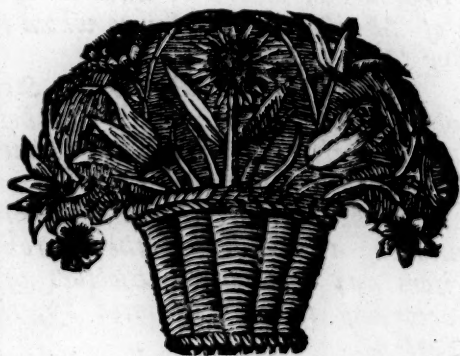
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## THE INTRODUCTION,

*In which the Publication of The Right of Patronages considered (in Answer to an anonymous Writ, called, The Case of Patronages) is vindicated from the unjust Representations of the Reconsiderer.*



Uncharitable Representations of the Character of them with whom we may have some Occasion or another to contend, are reckoned (and not without Reason) to be an Evidence of a bad Cause, a straitned Adversary, and a lame Performance. How far the Reconsiderer of the *Right of Patronages considered* hath done Harm to himself this Way, and so hath forfeited a Claim to the Innocence of the Dove, he seems to recommend, in charging his Antagonist with Imperfections that are an Affront to human Nature; or hath quitted Pretensions to the Wisdom of the Serpent, in dealing with One whom he hardly allows a Share of Reason or Religion, or, as he expresseth it, of Chrillianity and Philosophy; The Vail he pretends to draw over the Imperfections of the Considerer, *Page 77. Sect. 2.* of his Pamphlet, will give the Reader the best View.



It seems the *Reconsiderer* relolved strongly to assert his Charity, that his bitter Invectives, if possible, might be covered; but this Vail of his hath been found so thin, as hath made not a few Readers of his Book to change their Opinion concerning himself; and so he hath fallen into the Pit he was digging for another.

How Words uttered in Pulpit, or Arguments used in some of the most publick Meetings of this Church, can be said to be surreptitiously snatched up, it must be left to the Charity and Learning of the *Reconsiderer* to explain: But that which most offends the charitable Author, seems to be the Publishing of any Thing against his Case of Patronages, which, whatever Way he designed it as a Missive to a Friend, or otherwise, was handed about in one of the greatest Synods of this National Church, and seen by several Members of that Synod, before the *Considerer* had Access to see it: Nor was the Copy of the Case which fell into the *Considerer's* Hands handed about by him, or did he ever give it out to any as one private Acquaintance, who is neither Minister, Elder, Probationer, or Student in Divinity.

Besides the Pains that was taken at the first Session of that Synod, to communicate the Case by a Copresbyter of the *Reconsider's*, it was put into the Hands of a Minister of another Presbytery, who communicate that Paper, and had it in his Custody, tho' fourteen or fifteen Miles distant from the Brother to whom it was addressed, so as when the *Considerer* was making no Account of it, he was dunned with Stories, how much a Paper, called *The Case of Patronages*, was taking with many. If the *Case-writer's* Correspondent communicate that Paper beyond his Intention, he is not to blame the *Considerer* for saying, That it was industriously handed about, unless he had said, that the *Case-writer* himself had done so. His Correspondents therefore, or he must part the industrious Handing about of that Paper between them. What was their Design in it, I leave them, as the *Reconsiderer* directs, to consult with one Witness, who is equal to a Thousand, if, as the *Reconsiderer* asserts, p. 4. *He, nor any of his Friends had an authentick Copy of it, till the Publishing of the Considerer's Pamphlet obliged him*

*recal the Original.* He insinuates, they might have had Notes of this little Paper, tho' not an authentick Copy; and if none of his Friends had an authentick Copy of it till such a Time, 'tis plain, that his Friends, who were intrusted with it, had given it out of their Hands, which is not far from a plain Acknowledgment of its being handed about by the *Cafe-writer's* own Friends.

So that, when Things are spoken in the most publick Assemblies, and are spread Abroad in Write, either contrary to the Principles of this Church, or tending to weaken these Principles, it may be left to any unbiassed Person's Judgment, if a Consideration or Refutation of these be an Inverting of our Saviour's Precepts; and whatever be the *Reconsiderer's* Respect to his spiritual Kingdom, or Precepts, the Want of which, *p. 1.* he charges on them who differ from him in the Point in Controversy, it shall be left to the Readers to judge, how far he hath walked by the Rule of either.

I have, perhaps, taken too much Notice of the *Reconsiderer's* Insinuation concerning the Printing an Answer to his *Cafe*. But truly, if his Pamphlet were purged from repeated historical Narrations, which the *Considerer of the Right of Patronages* hath duly considered, from his Evasions and shifting Reasonings, his partial Quotations, unjust Inferences, and mistaken Representations, his bitter Invectives, Aspersions and Inconsistencies, his blind *Innuendo's*, Reflections, and dubious Expressions, he might have been reduced to abridge the little Paper, his *Cafe of Patronages*, as having nothing just or reasonable to add to it, or any Thing that might extend or explain it.

The *Reconsiderer's* Performance hath either been written when he was in a bad Habit of Body, and standing in Need of these Gentlemen who might dispel his splenetick Humor (he refers the *Considerer* to such, *p. 65.*) or some of his Confederates of a more malevolent Disposition have imposed upon him, in making him the Instrument of venting their Fury and Rage.

There is one Thing noticeable in the *Reconsiderer's* Manner of managing his Subject; he gives *Innuendo's*, as if he had some Things to bring forth that would hurt the *Considerer's* Character, or fix upon him Practices con-

trary to his Principles laid down on the Subject in Hand, as, *p.* 25. after he has charged the *Considerer* with scolding Assemblies and Commissions, he says, *He might suggest to him some late Decisions both against Patron and People, tho' I am ashamed to find them so frequently on the same Side, of which I apprehend the Author not ignorant.* And, *p.* 29. says he, *I shall not take the Trouble of catching his Highway-man, because I have promised it perhaps on certain Conditions, tho' it seems our Author doth not regard such Restraints.* Now, I declare I am so little apprehensive of what may be comprised in these blind Innuendo's, that I don't understand the Meaning of them; and I must tell the *Reconsiderer*, That it would have been fairer, either not to have written such Things, or to have told us his Meaning: He hath larded his Pamphlet with so many Reflections upon the *Considerer's* Wisdom, Prudence and Policy, that his pretending to conceal any Thing that might bear hard upon him, is rendred incredible. He hath taken this Way of dealing by Innuendo's and Reflections, and high Pretensions to Charity and Discretion, as if he would at once persuade the World to think ill of the *Considerer*, and well of himself, as a discreet, charitable Person, who will not particularize the black Things he hath to charge his Adversary with. But the impartial Readers of his Performance will find little Occasion of commending his Charity or Discretion: And if the *Considerer* be not in case before the Conclusion of this Performance to fix on his Antagonist Errors in Fact, he craves no Regard to be paid thereto; But if this be undeniably done, it will be believed, that the *Reconsiderer* hath said all he could, and several more Things as he ought.

It is likewise to be observed, that when several Things of the *Right considered* fall in the *Reconsiderer's* Way, which he hath found inconvenient to answer; he then flees high with general Charges, Satyrical Reflections, and Expressions not to the Purpose in Hand; but these will call up as we remark upon his Performance, which no Doubt he esteems to be a very judicious one: Allowing him therefore to entertain the fond Conceit he hath of his own Abilities, and the low Opinion he expresseth of his  
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Adversary, or of any other of higher Consideration, I shall proceed to his discreet and judicious Pamphlet.

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## CHAP. I.

*Containing Answers to the Reconsiderer's Defence of the State of the Question in the Case, and the Considerer's Remarks thereupon vindicated; in which there are several Things concerning the Right of electing Pastors by Christian Congregations, the Usurpation of the Patron's Title, the Right of Ministers to their Stipends, and the Duty of the Magistrate with Respect to their Provision; together with the Vindication of this Church, and some reformed Divines, whom the Reconsiderer would bring in as supporting him in his Respects to Patronages.*



Whether the Considerer of the Right of Patronages stood in Need of an Adversary or not, he hath shown the State, in the Case of Patronages, neither to be so harmless, nor yet to carry it so high against the Usurpation of Patrons as any Writer of Credit; so that the *Reconsiderer* mistakes in alledging so much, *p. 11.* It is true, 'tis hard to know whom he reckons Writers of Credit; but if he will really, and not take again his Word, allow *Voet*, and with him the Compilers of our Books of Discipline, our Civil and Ecclesiastick Representatives, *Anno 1649, Didoclavius, Beza, Altingius, Amesius, Rutherford, Park,* the Synods in



*Holland*, with our Church-representatives, *Annis 1711*, and *1712*, to be Persons or Writers of Credit, it will be found that the *Case-writer* hath not carried the Matter so high against Patrons as they have done. But, unless it be some small Regard he gives *Voet*, I am not sure if the rest be within the Compass of his Respects upon this Subject; unless it be that sometimes by a partial Quotation he would claim their Patrociny.

The *Reconsiderer* would insinuate, that other Writers have carried the Matter higher against Patronages than *Voet*; perhaps he means *Beza* or *Rutherford*, whose Words, as quoted by the *Considerer*, he hath not thought worthy of due Consideration. But, truly, as *Voet* and they will be found equally zealous against the Patron's usurped and unlawful Title; so, whatever he may apprehend concerning his own, and his Patronage-men their Credit, he might have saved his own Credit, by allowing these to be Authors of Credit.

Page 11. the *Reconsiderer* says, "The Author of the *Right* could expect to be outdone by none, in reducing the Patron's Right, but by the Council of *Trent*, which a famous Lawier accuses of taking away the Right of Lay-Patrons, and giving Ecclesiastical Judges the Cognizance of them."

*Answer*. Whatever warm Side the *Reconsiderer* hath to Patronages, the *Considerer* assures him, he never had such a Thought as to be outdone by the Council of *Trent* in reducing the Patron's Title: For, tho' the *Reconsiderer* seems offended with the *Trent* Reduction, the *Considerer* is of *Beza's* Opinion; *Non de ejus reformatione, sed ejunctione, abolitione, & ultima internecione, serio omnibus piis hominibus esse cogitandum*. And really, seeing the Patronage-men call that Title a spiritual Trust, the *Trent* Reduction of their Power appears not unreasonable; which you may take in our Mother-tongue from the History of the Council of *Trent*, Lib. 8. p. 789. *That Causes Ecclesiastical, even beneficial also, shall be judged by the Ordinary, in the first Instance*. How this reduces the Patron's Right, I must remit him back to *Du Moulin* the Lawier to show. But, tho' the *Reconsiderer* pretends some Inclination to have Patronages limited, he seems to

he against their vouching their Right before Church-judicatories: If they were under any such Limitation, he might lose the comfortable Occasion of seeing Sifts of Ecclesiastick Procedure from the Civil Powers; but he hath this to encourage his Patronage-friends, that the Act 10<sup>mo</sup> Anne, restoring Patronages, is not so fettered. It were not unreasonable, that seeing Patrons require Presbyteries to admit the Presentee, that Presbyteries had an Evidence of the Patron's Right. Considering the friendly Regard the *Reconsiderer* hath to Patronages, and his joining the *French* Lawier in censuring the *Trent* Restriction, he would seem not much to oppose the Opinion of *Diego Lainez*, one of the Fathers of the Council of *Trent*, who said, *That it was a Motion of the Devil, to offer to reduce Elections to their ancient Course; and that the Antiquity of the Method was a bad Argument for the Reviving of it: But that it ought to be suppressed, because it was the ancient Custom; for, if the Church had not found it inconvenient, she would not have quit it.* But, what will the *Reconsiderer* say, if I show him a Protestant Church who hem in the Patron as much as the Council of *Trent*? Grey, in his System of *English Ecclesiastical Law*, upon the Method to be taken for the Discovery of fraudulent Trusts, p. 268, tells us, *The Bishop is required to examine on Oath the Person presented, before he give him Institution, Whether to his Knowledge or Belief, the Person who made such Presentation be the real Patron, and made it in his own Right? &c.* Page 269. In Answer to that Question, What is a *Jus patronatus*? he says, *An Enquiry which the Bishop makes concerning several Matters, relating to the Right and Title of a Patron, who hath presented a Clerk to him, in order to Admission and Institution, which, tho' anciently issued of Course upon every Presentation made, is now grown occasional only, when Churches happen to be litigious.* So that the Church of *England* must come in Offenders on this Point, equally with the Council of *Trent*, whom (if the Lawier *Du Moulin*, or his Follower the *Reconsiderer*, would have allowed) I should not have condemned, nor would the Reformed Churches, tho' they had past an Act against Patronages altogether.

*Holland*, with our Church-representatives, *Annis 1711*, and *1712*, to be Persons or Writers of Credit, it will be found that the *Case-writer* hath not carried the Matter so high against Patrons as they have done. But, unless it be some small Regard he gives *Voet*, I am not sure if the rest be within the Compass of his Respects upon this Subject; unless it be that sometimes by a partial Quotation he would claim their Patrociny.

The *Reconsiderer* would insinuate, that other Writers have carried the Matter higher against Patronages than *Voet*; perhaps he means *Beza* or *Rutherford*, whose Words, as quoted by the *Considerer*, he hath not thought worthy of due Consideration. But, truly, as *Voet* and they will be found equally zealous against the Patron's usurped and unlawful Title; so, whatever he may apprehend concerning his own, and his Patronage-men their Credit, he might have saved his own Credit, by allowing these to be Authors of Credit.

Page II. the *Reconsiderer* says, "The Author of the *Right* could expect to be outdone by none, in reducing the Patron's Right, but by the Council of *Trent*, which a famous Lawier accuses of taking away the Right of Lay-Patrons, and giving Ecclesiastical Judges the Cognizance of them."

*Answer*. Whatever warm Side the *Reconsiderer* hath to Patronages, the *Considerer* assures him, he never had such a Thought as to be outdone by the Council of *Trent* in reducing the Patron's Title: For, tho' the *Reconsiderer* seems offended with the *Trent* Reduction, the *Considerer* is of *Beza's* Opinion; *Non de ejus reformatione, sed ejunctione, abolitione, & ultima internecione, serio omnibus piis hominibus esse cogitandum*. And really, seeing the Patronage-men call that Title a spiritual Trust, the *Trent* Reduction of their Power appears not unreasonable; which you may take in our Mother-tongue from the History of the Council of *Trent*, Lib. 8. p. 789. *That Causes Ecclesiastical, even beneficial also, shall be judged by the Ordinary, in the first Instance*. How this reduces the Patron's Right, I must remit him back to *Du Moulin* the Lawier to show. But, tho' the *Reconsiderer* pretends some Inclination to have Patronages limited, he seems to  
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be against their vouching their Right before Church-judicatories: If they were under any such Limitation, he might lose the comfortable Occasion of seeing Sifts of Ecclesiastick Procedure from the Civil Powers; but he hath this to encourage his Patronage-friends, that the Act 10mo *Anno*, restoring Patronages, is not so fettered. It were not unreasonable, that seeing Patrons require Presbyteries to admit the Presentee, that Presbyteries had an Evidence of the Patron's Right. Considering the friendly Regard the *Reconsiderer* hath to Patronages, and his joining the *French* Lawier in censuring the *Trent* Restriction, he would seem not much to oppose the Opinion of *Diego Lainez*, one of the Fathers of the Council of *Trent*, who said, *That it was a Motion of the Devil, to offer to reduce Elections to their ancient Course; and that the Antiquity of the Method was a bad Argument for the Reviving of it: But that it ought to be suppressed, because it was the ancient Custom; for, if the Church had not found it inconvenient, she would not have quit it.* But, what will the *Reconsiderer* say, if I show him a Protestant Church who hem in the Patron as much as the Council of *Trent*? Grey, in his System of *English Ecclesiastical Law*, upon the Method to be taken for the Discovery of fraudulent Trusts, p. 268, tells us, *The Bishop is required to examine on Oath the Person presented, before he give him Institution, Whether to his Knowledge or Belief, the Person who made such Presentation be the real Patron, and made it in his own Right? &c.* Page 269. In Answer to that Question, What is a *Jus parronatus*? he says, *An Enquiry which the Bishop makes concerning several Matters, relating to the Right and Title of a Patron, who hath presented a Clerk to him, in order to Admission and Institution, which, tho' anciently issued of Course upon every Presentation made, is now grown occasional only, when Churches happen to be litigious.* So that the Church of *England* must come in Offenders on this Point, equally with the Council of *Trent*, whom (if the Lawier *Du Moulin*, or his Follower the *Reconsiderer*, would have allowed) I should not have condemned, nor would the Reformed Churches, tho' they had past an Act against Patronages altogether.



The *Reconsiderer* might have spared all the imaginary Pains of dismounting the Batteries against his Patronages *pleno jure*, which in the Case he owns to be Satanical, if he had been pleased to notice, that the *Considerer* told him, p. 50. of the Right, That what he calls *plenum jus*, is *nullum jus*, is supported neither by Canon, Civil or Common Law: But this he so perverts, p. 11. as if he would bring in the *Considerer* saying, That Patronages are *nullo jure* Satanical.

I shall only add to what you have, Pages 27, 28, and 50 upon the *Case-writer's* Distinction, That seeing Patronages are established only by Custom, or some positive Laws, I ask the *Reconsiderer*, If ever Patrons, by these Laws, had such an absolute Power, as in his Sense of *pleno jure*? If they had no such absolute Power, my Reasoning against his Notion of *pleno jure* will stand firm, viz. That Patrons were never warranted by any Law since our Reformation, to present, without regard to the Church's Examination and Admission; and if any Patron so us'd his Right, he did it, as I said, *suo arbitrio*, but *nullo jure*.

But the *Case-writer* quoting *Beza*, in the Matter of his *pleno jure* Presentations, and in his Sense calling them Satanical, a little Consideration will oblige him to own *Beza's* Meaning to be, That, tho' the Church's Examination and Admission obtain, they are Satanical, because they consist not with the Freedom and Liberty of lawful Election, *Bez. Conf. Cap. 5. Iterum repeto quod antea dixi, Nunquam receptum fuisse in Christianis Ecclesiis, ut quis admitteretur ad functionem Ecclesiasticam nisi libere & legitime electus ab Ecclesia cujus intererat. Itaque tota ista mundinatio presentationum, pleni juris patronatus, collationum, &c. a Satana projecta esse.* It is plain what he means by the *pleno jure* Presentations, which he calls Satanical, namely, That altho' the Examination and Admission of Intrants to the Ministry, according to the Laws concerning Patronages, do belong to the Church, and tho' Patrons present according to this Rule, yet they are Satanical. But the *Reconsiderer*, p. 12. by his Instances, would have our Church only com-plain

plaining of Patronages when the Church's Examination and Admiffion was interrupted; and yet *Beza*, to whom he refers, in his Case, calls these very Presentations which allow of this, Satanical.

Whatever the *Reconsiderer* may pretend, *That Patrons do not invade the Peoples Right of Election*, as if he were for maintaining this Right; yet through his Performance he endeavours to show, that all our ancient Worthies complain'd of in Patronages, was the Want of Examination and Admiffion, as if (in their Opinion) Patronages were not otherwise grievous, or were quietly to be submitted to, if that were allowed. A very great Reflection on them, who all that Time maintain'd the Congregation's Right to elect, as well as the Pastor's Right to examine and admit. And, as I observed in the *Right considered*, whatever might have been done in Times of publick Confusions, or by Court-Connivances, in presenting sometimes without Regard either to the Congregation's Election, or the Church's Examination, I may afterward show, that this was contrary to exprels Acts of Parliament.

The learn'd *Beza* condemneth Patronages, as allowed and practis'd in the *Papacy*: And if what the *Considerer* hath condescended upon from the Canon Law be not sufficient to show, that *Examination* and *Admiffion* was retained by them, I shall add the Testimony of the Council of *Trent*, Sess. 24. Cap. 18. Sess. 25. Cap. 9. See also the History of the Council of *Trent*, Lib. 8. p. 789. *In Laick-Patronages, he that is presented by the Patrons shall be examined by the Examiners, and not admitted except he be found to be fit.* Now, as I hope the Lawier *Du Moulin* will not be offended with this *Trent*-Limitation, so I could wish the *Reconsiderer* had been so just to this Church, as to have allowed them really to have complained of something else in Patronages as a presenting so absolutely; and that he had never insinuated, that this Church quietly submitted to Patronages, while they were allowed the Benefit of Examination and Admiffion, as if Elections had neither obtained, or were warmly enough claimed.

I will afterwards have Occasion to show the *Reconsiderer's*

rer's Mistake, p. 13. in saying, That the Act *decimo Annæ* lets us on the Footing of 1592 and 1567; which I shall allow to be so far true in Respect of the Church's Examination and Admission, but not in Respect of Election, which then obtained both by Law and Practice, but by that Act *decimo Annæ* is expressly repealed.

How far the *Reconsiderer* hath answered my Question, p. 27. of the *Right*, if Presentations, as to the very Form of them, maintain not what I justly defined to be, according to the Law, their *plenum jus*, namely, their presenting a Man to a Parish to be examined and admitted by the Presbytery without lawful Election, which the Patronage-act abolishes, I cannot see: But he must run to his feigned Notion of *plenum jus*, which I yet call *nulum jus*, and says, *If the Forms of Presentations import any such absolute Power, they must be very informal.* But I would ask him, If what he would call a formal Presentation, be not sinful and unlawful? I further ask, How he can support his Alledgance, that Patrons only present to the Benefice, when he knows, that in some of these Presentations he himself zealously defended, the Patrons assert their undoubted Title to present to the Parish, to the Church, to the Charge, and their Right of disposing these. One of them before me, presents Mr. *T. R.* to be Minister of the Parish of *N——M——r*, and to serve the Cure there, and then to the Stipend and Emoluments: Another Instance is the assigned Patron of the Parish of *O——n*; some Time after he had presented Mr. *A. T.* to that Parish, he writes a Letter to the Moderator of the Presbytery, telling him, That he sends the Acceptance of Mr. *A. T.* whom he had called to be Minister of *O——n*; and the Presentee, in his Letter to the Patron, thankfully acknowledgeth his presenting him to the Charge of *O——n*; and, when the Patron saw that the Presbytery had appointed a Diet for founding the Inclinations of the People, and met in Consequence of this Appointment, he protested first and last against founding their Inclinations. I think, such Presentations will come in among *Beza's* Satanical *pleno jure* ones, and will never in Reason or Justice be found supporting the Vigour of our Church-constitution, but must be esteemed

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Invasions of the Rights of Church-members, tho', it seems, the *Reconsiderer* reckons the Tyranny and Unlawfulness of Presentations taken away, if Church-judicatories have the Examination and Admission of Persons presented.

It will not be found unfair Reasoning to say, That what is sinful and unlawful is Satanical. This Church hath declared Patronages sinful and unlawful, even where Examination and Admission hath obtained both in Law and Practice: Therefore also hath esteemed them Satanical.

The *pleno jure* Presentations, which *Beza* calls Satanical, are these used in the Papacy; but such were obliged to admit of the Church's Examination and Admission: Therefore, according to *Beza*, notwithstanding of the Church's Examination and Admission, Patronages are Satanical.

So that the *Reconsiderer* may make of his *pleno jure* what he pleases: For, according to his Sense of the Phrase, he owns them to be Satanical; and *Beza* whom he quotes, according to my Sense of the Phrase, makes them Satanical; so that, from all his Vouchers, he is able to make but a Satanical Bargain of it.

Whether the *Considerer's* Remark on the *Case-Writer's* Style, concerning the Christian Rights of the Church, was a poor Criticism or not, the *Reconsiderer's* Apology hath obliged him to make another small Remark; he says, p. 13. *The Case-Writer was not sure to have escaped Censure, tho' he had consulted our intelligent Author, and used his Words, the Rights of the Christian Church; for, could not our Author have alledged the Case-Writer had insinuated, that some other Church than the Christian Church had Rights indispensable, and accused him of Paganism?* On which the *Considerer* owns, he is not of such extensive Intelligence as to know of any other Church but the Christian Church; and the intelligent *Reconsiderer* was not in Hazard of a Charge of *Paganism*, unless he be for a *Pagan Church*; which his Words drive at, or they have no Meaning. *Deism* is indeed among the prevailing Evils of this Day, and the *Reconsiderer* may yet reconsider, if his *Pagan Church* tends not to strengthen their Hands. I hope the *Reconsiderer* will be



be so discreet as not to reproach the Apostle *Paul* because he had not so very extensive Intelligence as he; for he seems not acquaint with a *Pagan Church* in what he writes, *Eph. 2. 12.* But, whatever small a Share our Author will allow the *Considerer* to have of Philosophy or Christianity, he will not alledge that he is turned *Deist*, believing him to be both a reasonable Man and a Christian, tho' he hath not been lavish of either in his intelligent Reconsiderations.

Because the *Considerer* had said, *p. 27. of the Right*,  
 “ What doth it profit a Christian Society to maintain  
 “ their natural and instituted Rights in the Choice of a  
 “ Minister, when it is in the Power of the Patron to give  
 “ or withhold the Living, to which the Elected hath a  
 “ natural and instituted Right? Or, if it can consist  
 “ with the Liberties of Mankind to have their Hands  
 “ bound up from giving that Living to which their Mi-  
 “ nister hath a natural and instituted Right? The *Re-*  
*considerer* calls this obscure, which was the shortest, tho'  
 not the fairest, Way of answering; and then, that he  
 may dive into the Obscurity, *p. 13.* he finds it importing  
 this Difficulty, *That a Society can have no Liberties,*  
*unless they have all that belong to them;* An Import  
 which the Words of the *Considerer* will never admit of,  
 and must come in to the Account of the *Reconsiderer's*  
 other candid Glosses: His Import is so unfair, and so far  
 from the Mind of the *Considerer*, that, *p. 47. of the*  
*Right*, he says, *Would it be wise to refuse one Privilege,*  
*because another cannot be had?*

But, whatever Obscurity he would fix upon the *Considerer*, in that obscure Point he finds him going upon some Mistakes, which shews he had taken up his Meaning; so that, while he pretends Ignorance, he hath not been very artful in concealing it.

The first Mistake, *p. 13.* he fixes on the *Considerer* is, *That a Minister hath as natural a Right to a modified legal Stipend, as a Society have to elect a Minister.* How this, as the *Reconsiderer* states it, can be found in the Words of the *Right*, I do not see. But, suppose the *ip-sissima verba* were there, would it be any Error or Mistake to say, That the Christian Magistrate as a nursing  
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rather to the Church, and in Vertue of his Power *circa sacra*, is bound to take Care that the several Christian Congregations in his Dominions be provided with a settled Living for a Pastor to take Care of their Souls? Is it not agreeable to Reason and the Word of God, that the Congregations thus endowed elect their Pastors? Can it consist with the Freedom of Elections, or the Duty of the Christian Magistrate, that any by a Power derived from the Magistrate should have a Right of conferring this Living, which is the established Patrimony of the Congregation, but they to whom it doth belong to fix the Pastoral Relation to this Congregation so endowed? I am afraid the *Reconsiderer* goes on this Mistake, as if the Magistrates endowing the Church, were a Matter of Compliment, and not of Duty. If the endowing of a Church were a Matter of Compliment, who, duly valuing their Christian Rights, would give up with these for such a Compliment? But, if the common Endowment of Churches be not the Magistrate's Bounty, but his Duty, and his Duty to modify and settle these in such a Way as Ministers of the Gospel may be duly provided, who will say, That the Person duly elected and admitted hath not the Right in all Respects to that Stipend so modified, settled, and established, and that without any Condition prejudicial either to the Freedom of Election, or supporting a negative Influence in bestowing the Living? So that, tho' the *Reconsiderer* in a scoffing Manner speaks of extracting a Decreet of Plat out of the Bible, it may be so far extracted out of the Bible, as that thereby Christian Magistrates are obliged to provide Christian Congregations with a Living to their Ministers. Christian Congregations have a Right of electing these Ministers upon their being duly admitted; the Magistrate is bound to give them all Countenance of Law for evicting the Living, which is the special Provision of that Congregation. I presume another Mistake will be found to run through a good Part of the *Case-Writer's* Reconsiderations; he doth not distinguish between the presenting a Minister to an Ecclesiastick Benefice, and the Laws determining Payment to the Man presented; and so he often confounds the Patron's Presentation

tation with the Magistrate's Decree and Letters executorial. The due Election and Call of a Minister is his Presentation, upon which he is to be examined and admitted; and, being admitted, it is the Magistrate's Duty to appoint the Stipend to be paid him.

What is said may serve to remove the other Mistake he would fix upon the *Considerer*, p. 13. and 14th, viz. *That it does little profit a Society to maintain their Right in the Choice of a Minister, if the Patron can withhold the Living.* This he looks upon as dangerous, without telling us where the Danger is; but the Readers must take this and a good deal more upon his Word. But, that he may fix the imaginary Mistakes upon the *Considerer*, he tells us, p. 14. *First, That the Right of the People to give a Living to their Minister, is much older and better founded, than the Patron's usurped Title; therefore, let him keep his Living to himself, and the People will not profit the less in Spirituals, that they supply their Minister in Temporals according to the natural Right.*

Upon this I shall observe, 1. That, whatever Way a willing People may supply their Minister with their Temporals, this will not vindicate the Patron's Title to withhold the Living from one duly elected and admitted, especially, when the Living is of the Elector's Temporals. 2. However much the *Reconsiderer* may jest upon the People's profiting in Spirituals, they cannot readily profit in Spirituals, if Spirituals be not ministred unto them; and Spirituals cannot be ministred to them, if Ministers be not supply'd by them; and Ministers cannot well be supplied by them, when the Stipend of the Parish, the Endowment of their Church, the ordinary Living of the Minister, may be abstracted, and is at the Disposal of him who hath an usurped Title. 3. While he says, "That People are to supply their Minister with their Temporals, according to the natural Right." All I can find in this Reasoning, is just this, Because a Minister hath a Right to a Living, as the Workman to his Wages; therefore their Temporals, which were destined for the Supply of their Ministers, and, through the Length and Corruption of Time, have been claimed as the Inheritance of the usurping Patron, must continue at his Disposal, tho' alienated from

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his Use who is duly elected : And the People must be driven to this Hardship, of making a new Provision, because the usurping Patron will not apply the Living for the Maintenance of their Choice, tho' it was originally appointed for that End. I make no Doubt, but there may be found some Congregations, who would rather bear the Hardship of new Provisions, than have Presentees palmed upon them : But, as Instances of this Kind would rarely obtain, it follows, That, however People may struggle to maintain their Right of Election, it must land here, to stoop to the Presentee, and give up with the duly Elected, because they have not Bread to give them ; not the readiest Way to secure the Right of Election, or to maintain the Vigour of our Church-Constitution, Phrases which the *Case-Writer*, or *Reconsiderer*, makes use of ; but how far he secures either, his Concern for the Patron's being softly and tenderly handled, best explains.

*Secondly*, The *Reconsiderer* asks, *Why should a Minister be deprived of his natural Right by the Patron ?*

Upon this I must observe, That after he hath, in his first Particular, call'd the Patron's Right an usurped Title, by this Question he proves it : But the *Reconsiderer* takes his Word again, and moderates his own severe Censure upon the Patron's Title, and gives an Answer to his Question, as if a good Reason could be given, why an usurping Patron should deprive a Minister of his natural Right : *Because* ( says he ) *the Minister hath not a natural Power to recover his natural Right, but by the Intervention of human Laws, establishing the Way of enjoying this natural Right, upon certain Conditions, one of which may be, That he accept a Presentation ; another, That he obtain a Decree of Plat.*

On which it may be observed, 1. That where there is a just and unquestionable Right, whether natural or positive, civil or sacred, it is the Duty of the Legislator to support that Right, and to establish such Laws, as may confirm and make effectual all the Privileges and Advantages belonging to that Right. 2. That whatever Conditions may be proposed and laid down in the establishing  
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of a Right, which Right had not a Being prior to that Establishment; yet an antecedent Right, necessary, just, lawful, and duly established, is not to be clogged or restricted with After-limitations. If a Minister hath a natural and instituted Right to his Stipend, it is a just Grievance, that there should be any human Laws retrenching this Right, or laying down Conditions and Limitations prejudicial thereto. 3. We are to distinguish betwixt what gives a Right, and what makes a Right effectual. Decrees of the Civil Judge may be, and are needful for executing what a Man hath a natural and civil Right to, but Decrees give not the Right; this should be a Charter, but no Decree: A Man pursuing his proper Debt, makes no new Acquisition of Right, but his Decree is the Authority of the Judge, supporting his Right. When Ministers pursue for their Stipends, it still supposes their Right; but the Deed of the Patron is to give a Right. 4. The *Reconsiderer* had much obliged his Patronage-Friends, if he had shewn where is that Law that obligeth a Minister to accept of a Presentation, as a Condition for the recovering his Stipend, to which he hath a natural and instituted Right; he did well to set his Thumb on this, because there is no such Law. But, lest he alledge, that I am mistaken, I must own, that upon the establishing Prelacy at King *Charles's* Restoration, there was an Act, That all who had entered into the Ministry after 1649. should accept of Presentations: If he be for pleading the Force of that Act, he will not perhaps be much offended, tho' the Oath of Canonical Obedience go along with it; but both were repealed, and this Church restored to her Liberty, 1690. And no such Clause did obtain, even in the Act 10mo *Anne*, restoring Patronages, tho' that Act be the severest of its Kind, excepting that *Caroline* Act, when our beautiful Constitution was quite overturned.

In the same Page and Section, the *Reconsiderer* calls *Presentations an instituted Right, generally thought convenient.*

Upon this it may be observed, That it is consistent with the *Reconsiderer's* Respects to Patronages, that he should call *Presentations an instituted convenient Right*; but

out that this was the general Opinion of the Church of *Scotland*, their Addresses and Remonstrances, 1711, and 1712, and 1715. will testify against him. But, lest he should impose upon his Readers, as if Presentations were only given as Means for recovering a Minister's Stipend, he and they may well know, that the Presentation is given before the Minister hath any Relation to the Parish provided with such a Stipend; and, unless he be duly instituted, he cannot pretend a Right to the Stipend, except in the *Reconsiderer's* Sense of *pleno jure*. So that, whatever may appear to modern Canonists, a Minister duly elected and admitted will evict his Stipend, and oblige to Payment, tho' there hath been no Presentation, nor Acceptance of the Presentation given. This Condition of accepting Presentations, is a Blind that the *Reconsiderer* makes much use of, but hath not the least Vestige in the Law, and consequently is an Invention of his own.

The *Case-Writer* shews such a tender Regard to Patronages, which he hath more fully declared in his *Considerations*, that the *Considerer* could not but remark a little upon his second Concession, *That a reformed Church may and ought to apply to the Civil Powers, for Redress of any Grievance sustained by the Law establishing Patronages, &c.* and could not but judge the *Case-Writer* involved in a Contradiction, when; in another Part of his *Case*, he says, *That the Church doth not think it convenient to forfeit the Protection of the Laws, by struggling against them.*

Our Assembly 1712 struggled against the Law establishing Patronages, tho' that was a Time we were in Hazard of losing the Protection of Law: They look'd on Patronages, as in themselves unlawful; and whoso is pleas'd to read their Remonstrances against them, must be much prejudiced, if they will say with the *Reconsiderer*, Page 15. *That yet they submitted to them.* As their Submission was never sought, so their seasonable and faithful Remonstrances against them, were a plain Intimation of their Opinion concerning them. When a Thing is forced upon a Person or Society, nill they will they, it is a new Piece of Stile to say, *That they submit to it.*

The *Reconsiderer*, Page 14. proposes to give a direct Answer to a Question put to him by the *Considerer*; If the Act 10mo *Annæ* be in his Opinion a Grievance? To which he answers, *That he thinks it is, but no greater than in 1592 and 1567.* And, Page 15. *That the Act 10mo Annæ puts us where we were in 1592.*

I observe on this, 1. Tho' it was never denied by the *Considerer*, That in the Years to which the *Reconsiderer* refers, Patronages prevailed, and, in Time of publick Confusions, were sometimes very arbitrarily used by some Patrons; yet the Church continued their Remonstrances against them. 2. In 1592. when the *Reconsiderer* says, *The Church submitted to Patronages*, they strictly injoynd, and obliged all their Ministers to sign the second Book of Discipline, in which Patronages are very fully and expressly condemned. 3. However Patrons might then maintain their usurped Title, I will afterward shew, that Elections were then authorized by Civil, as well as Ecclesiastick Authority. 4. The Act 10mo *Annæ* gives more Power to the Patron, than any Law since the Reformation, ( I mean, while the Church enjoyed any Part of her Liberty ) for it giveth the Patron an elective Power, as the Words bear; *As concerning the Call of Ministers, by, &c. That it had proven inconvenient, and had occasioned Heats and Divisions; therefore the Right of Patrons, to the Presentation to Churches and Benefices, is renewed and confirmed, &c. and the Act 1690 is repealed.* In the Times to which the *Reconsiderer* refers, Elections did obtain, there was no Act repealing the Congregation's Right to elect; but the Act 10mo *Annæ* repeals the Act 1690, ratifying the Congregation's Right, and substitutes the Patron in their Room, which is plainly to give him an elective Power. But this Remark, which the *Considerer* made on the second Concession in the Case, the *Reconsiderer* thought fit to pass over; perhaps it was not worth his Pains, which is the Way he takes to answer other Difficulties moved to him by the *Considerer*; or, he thought it might go among the *Errata* at the Close of the Performance: But it must even stay in the Place it was in, till the *Reconsiderer* be able to discharge it by a more solid Answer.

As I said of the Council of *Trent*, so may I say of the *Reconsiderer's* Quotation of the third *Lateran* Council ; I should not have blamed them, tho' they had passed an Act against Patronages altogether ; and tho' they made bloody Decrees against the poor *Albigenses*, they might have done some good Thing. I know not what this Quotation serves for, unless he would give a Swatch of his Reading, that he had seen the Decrees of the *Lateran* Council ; a small Affair ! Or, that the Decrees against the *Albigenses* and the limiting Patrons, were equally criminal.

Page 15. The *Reconsiderer* proceeds to answer the *Considerer's* Questions and Exceptions against the State of the Question in the *Case* ; which, however odd and out of the Way he may be disposed to think them, it is obvious he hath thought fit, in attempting to answer them, to step out of their Way.

To the first Question, If Patronages are not established by Civil Laws, without any Regard to our Church's Constitution ? He answers, *No, else the Patron might present the Kirk-Officer to the Minister's Living ; and refers for Proof to the Act 1567.*

Upon his Answer I may remark, 1. That he can go no further back for the Proof of the Regard to our Constitution, in the Matter of Patronages, than the Act 10mo *Anne*, re-establishing them ; and how far an Act, repealing the Congregation's Right to elect, can bear a Regard to our Church's Constitution, can be best explained by one of the *Reconsiderer's* Capacity and Comprehension. 2. It is true, the Patron is not at Liberty to present any to the Living, but such as may receive Institution ; but this will not infer a Respect to our Church's Constitution : For, by the Constitution of the Churches of *Rome* and of *England*, the Presentee must be examined and admitted by the Church ; but the distinguishing Character of our Constitution is, That the Congregation have a free Election. Now, the Act restoring Patronages hath so little Regard to that, that the Act 1690, ratifying that, is repealed. 3. Whatever Improvement may, or ought to be made of the Act of Parliament 1567. viz. *That General Assemblies are to have the final Decision*



*Decision of all Appeals relating to Presentations*; there are two Things which shew the little Regard that is now had to that old Act and Privilege. 1. That the Civil Powers, as in too many Instances, take upon them to sift the Procedure of Church-Judicatories, unless they settle the Persons presented. 2. Church-Judicatories themselves give active Countenance to Presentations, saying, That they cannot fly in the Face of Law as to Presentations; and yet the confident *Case-Writer* will say, *That the Vigour of our Church-Constitution is established by Civil Laws*: If it be so, Why should that be accounted a Flying in the Face of the Law, to maintain the Vigour of our Church-Constitution, established by Law? The *Reconsiderer* hath not forgotten the Decision of the Reverend Commission in *August* last, in favours of the Man presented to the *West-Kirk*, in Opposition to a Call given to another by the Majority of Heritors and Elders, and of more than one Hundred to one of the People; yet it was decerned expedient to settle the Presentee. Was the Freedom of Election regarded here? Mr. *Reconsiderer*, it is informed that you voted the Expediency of that Settlement; Was this agreeable to our Church-Constitution? Did this support its Vigour? Was you in that for the Freedom of Election? Perhaps you only allow this Freedom, when they contradict not the Patron; but when they dare to stand on an opposite Side to him, in the Depth of your Prudence and Policy, you judge it expedient to settle the Presentee. What was it carried you so many Miles to that Commission? a Zeal for your beloved Presentations, or to support the Vigour of our Church's Constitution?

The *Reconsider* says, p. 16. *The Author of the Right is still in a Mistake, when he saith, That Patrons are less limited now than ever, and that the Act restoring them hath no Reference to any former Acts or Limitations.*

Any Body may observe, 1<sup>st</sup>, That, after he hath called this a Mistake, he stops there, as unable to disprove the Assertion; if it be a Mistake, he should have proven it to be so, for we are not to take it on his Word. But, 2<sup>dly</sup>, That the *Reconsiderer* may see that this is not to be

be put among the *Errata* at the End of the *Considerer's* Performance, I shall make good the Assertion ; which, because I may have Occasion afterwards more fully to enlarge upon, I shall only set down some short Hints here. The Nobility, 1560, subscribed the first Book of Discipline, in which the People's Right of Election is maintained ; and, according to the second Book of Policy, none are to be thrust upon Congregations against their Will : And, among the King's Articles 1597, Ministers are not to be settled in principal Towns without the Consent of their own Flocks ; and, according to *Sportswood*, p. 545, *Anno* 1624, tho' Prelacy had stood several Years, popular Elections, even in the City of *Edinburgh*, are not discharged till that Year : But, after the Abolition of Prelacy, the second Parliament of King *Charles I.* Act 7th, did ordain Presbyteries to plant vacant Kirks with Consent of the Parishes ; and Act 8th, anent Presbyteries providing and admitting Ministers to Kirks which belonged to Bishopricks, it is always provided, that this be without Prejudice of the Interest of Parishes, according to the Acts and Practice of the Kirk since the Reformation. In the 9th Act of the last Session of the same Parliament, Presbyteries are appointed to plant vacant Churches upon the Suit and Calling of the Congregation : But the Act *decimo Anne*, restoring Patronages, discharges Congregations from any such Interest, and substitutes the Patron in their Room ; which is to give the Patron an elective Power, and so is an Extent of his Power beyond what he ever had during the Establishment of Presbytery since the Reformation.

It is not like that the *Considerer's* Doctrine will procure him great Thanks from Patrons, and therefore he shall allow the *Erastian* Disputants for Patronages to divide that Spoil among them, and to lay their Hands on their Hearts, and seriously consider, who hath done most, or whose Doctrine hath the greatest Tendency to support their Title. It is diverting to observe the *Reconsiderer's* Method; he says, *The Considerer goes forward with his Mistake*, but he himself goes backward from the 29 to the 28 Page of the *Right considered*, to find out this going fore-

forward ; but this may may be excused him, considering how much he goes backward and forward on his Subject.

In Answer to the *Considerer's* second and third Queries; If the Church of *Scotland* hath a Superintendency over the Parliament to restrict or limit their Acts? and, Where are these Civil Laws that establish our Constitution with a Power of limiting Acts of Parliament? All that he says, is, *That the Church claims no such Power, but the Parliament hath restricted their own Acts, and left the Church to make her own Canons.*

*Answe. 1.* That unless it be Examination and Admission, which also obtains in the Papacy, the Parliament hath laid Patronages under no Restriction. 2. Whatever Power the *Reconsiderer* may alledge to be left the Church, of making her Canons, it hath been shown that the Patronage-act *decimo Anne* is contrary to the Freedom of Election, and so contrary to the Canons of this Church: For, what doth it profit a Church to have never so many good Canons respecting her Liberty of chusing Pastors, when Civil Laws repeal their Right? 3. Doth not the *Reconsiderer* know, that tho' it hath been often wished for, that seeing Presentations by the Act of Parliament 1719 are a Nullity if not accepted, no Act against Acceptances hath ever been made; so cautious have many of our Church-representatives been of invalidating the Power of Patrons, when yet they could have done this according to the Principles and Canons of this Church: And the *Orthodox Case-Writer* asserts the Lawfulness of accepting Presentations, by which the Vigour of our Church-constitution is weakened.

The *Reconsiderer* thinks the *Considerer's* fourth Query odd enough, *viz.* How is the Vigour of our Church-constitution established by Civil Laws, as to have a Right of limiting Acts of Parliament? But, whatever Oddness may be in the Question, it is no more odd as the State of the Question in the *Case* gave Occasion for; Which is *Whether Patronages as now limited by the Vigour of our Church-constitution, established by the Civil Laws, &c.* Here the *Case-Writer* insinuates, that the Vigour of our Church-constitution is established by Civil Laws, and that by the Vigour of the Church-constitution so established.

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Patronages are limited. Now, I yet want to know where are these Civil Laws that impower the Church to limit Patronages? And I desire the *Reconsiderer* to tell me, if the Act restoring Patronages doth not invade our Constitution, rather than limit Patronages by any Vigour of, or Regard to, our Constitution?

But, the *Reconsiderer* gives several Answers to this fourth Query; as, 1<sup>st</sup>, *That our Church-constitution is confirmed by Civil Laws.*

To which I answer, That we have indeed fundamental Laws securing our Church-constitution. By the Treaty of Union it is secured; and it needs not be called angry Words, for the *Considerer* to have said, That we should depend upon the publick Faith engaged in that Treaty: And I desire the *Reconsiderer* to tell me, If the Act restoring Parronages, and repealing the Act 1690, was not an Encroachment upon that Article of the Union, which Encroachment was made at a Time when the *Hanover* Succession, the Basis of that Union, was in Hazard: But we should not now suppose, that Encroachments upon the Union-security will be countenanced or supported. Perhaps the *Reconsiderer* may judge this a dealing too freely with the Government, or that the *Considerer* is in Hazard of turning *Jacobite*; but, by what he hath said first or last, he is no more guilty of the one, nor in Hazard of the other, than some Words in the Address to the Queen concerning Patronages, ratified by the Assembly 1712, viz. *The Restoration of Patronages we conceive is contrary to our Church-constitution, so well secured by the Treaty of Union, and solemnly ratified by the Acts of Parliament of both Kingdoms.*

This may serve to obviate his second Answer to the foregoing Query, in which he saith, *That, tho' the Church doth not pretend to bind the Parliament by her Limitations, yet the Civil Authority respects her Canons, and secures her Constitution.* I shall only repeat, that a Part of the Church's Canons is, *That Election belongeth to Congregations*: Now, how is that Canon secured by the Act *decimo Annæ* repealing the Act 1690, in which is secured the Congregation's Right?

Altho' the *Reconsiderer* pretends to many Considerations



ons, all he hath to bring forth is, *That by an Act of Parliament never yet repealed, the Church hath the final Decision of all Appeals of Patrons in her own Hands.*

On this I observe, 1<sup>st</sup>, That when the Act 1567, concerning the Power of the Church finally to decide in such Matters, was in its Vigour, Elections by the Civil Laws were authorized; but the Act restoring Patronages repeals that Right; so that, if a Church-judicatory, yea, a General Assembly, should determine against the Patron in favours of a due Election, our Church-representatives shall call that a flying in the Face of the Law; and so we see what a poor Account is made of the Decisions. 2. If the Law restoring Patronages ratihabits the Law 1567, it must be only in so far as concerns the Hability of the Presentee, and not what concerns a due Election, that being taken from the Congregation and given to the Patron. 3. Doth not the *Reconsiderer* know, that the Civil Powers, without Regard to the Act 1567, have pretended to sist the Procedure of Ecclesiastick Courts beyond the Time in which the Matter might have been finally decided by the last Judicatory; an Evidence they were not to have Patrons bound by their Decision, tho' it is to be regreted that so few of their Decisions are for the People when opposed by the Patron.

The *Considerer* is not unmindful of the Act concerning *Leasing-making*, nor doth he think that just Remarks on the Conduct of any Subject, expose him to the Lash of that Law, or give any Ground to suspect his Promise never to turn *Jacobite*: But others, I own, are wise, not to be profuse in their Promises this Way, considering how much they are promoting the *Jacobite* Interest, by endeavouring to put the Planting of Churches so much into the Power of Patrons, many of whom, because disaffected to the State, make temporary Assignations of their Right of presenting to such as have taken the Oaths; at the same Time well assured, that none be presented by their Assignees, but their Creatures and Dependents.

Page 17. Our Author says, *That the Considerer goes on to answer himself, by shewing the Regard the Parliament had to our Constitution, Anno 1719; but will*

allow the Limitations of that Act to be of any Use upon the Case-writer's Principles; and that he is so far mistaken, that the Case-writer hath enjoyed the Benefit of that Act from a Presbytery acting jure devoluto; and that, on certain Conditions required by our Constitution, he would think it no Sin to accept of a Presentation from a Laick Patron, which was the Thing he expressed by limiting Patronages by the Vigour and Force of our Church-Constitution.

Ans<sup>w</sup>. 1. The Considerer hath already shown how the Act restoring Patronages hath no Regard to that which is the distinguishing Character of our Constitution in this Matter, viz. The Freedom of Election; and it cannot be laid, That his taking Notice of that favourable Limitation of Patronages by the Act 1719, removes the Force of what he had said: For the Act 1719 doth not restore the Freedom of Election, yet it might be of considerable Use, if duly improven; that is, Presentations would be void and null in Law, if they were not accepted: But if, according to the Case-writer, it be lawful to accept of Presentations, the Restriction in that Act is of no Use. 2. Neither that, nor any other Act requires Acceptances; so that the Case-writer's Principles, in this Matter, serve only to support the Patron's usurped Title. 3. There is not the least Connection between Patronages and our Constitutions; so that no Conditions in our Constitution can warrant a Man to accept of a Presentation. 4. The Considerer hath shown over and over, that Presentations are given prior to Elections, and to the Prejudice of free Elections; and Acceptances give the legal Force to that which is of so bad Influence. 5. The Reconsiderer goes upon a great Mistake, when he says, *That he enjoys the Benefit of the Act 1719, by accepting a Call from a Reverend Presbytery acting jure devoluto.* He hath not thought fit to remember, that the Act 1719, about Acceptances, respects the Patron, and not the Presbytery; for, after the Right is in their Hands, the Civil Authority hath no further Concern with what be accepted, or not accepted from them, providing the Churches be taken Care of, and Ministers planted in them, well-affected to the Government. 6. The Considerer, upon the fifth Ar-

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gument of the *Case*, hath shown, that the Call of the Presbytery, and the Presentation of the Patron, are not parallel; and what further may be said will come in afterwards; only the *Reconsiderer* will be so good as allow, That there is no Call without the Concurrence of Church-judicatories: And if Patrons and Presbyteries in this Matter be taken in *pari passu*, then it must follow, That, during the Course of the Patron's six Months, there can be no Call without his Consent and Concurrence; which Opinion the *Reconsiderer* may plead to be indulged in, seeing it is, and not implicately, couched in the Overture of last Assembly.

Page 17. He charges the *Considerer*, With perplexing the *Case*, by changing the Terms, and, instead of tolerating, substitutes accepting. The *Case* says, Patronages are not so sinful, but they may be tolerated: Hence, says the *Considerer*, therefore they are sinful, and ought not to be accepted.

*Ans. 1.* If the *Considerer* had used any Words or Inferences here, that are not at all in the *Case*, he had been justly charged with perplexing the *Case* by changing the Terms; but, seeing the first Corolary asserts the Lawfulness of Acceptances, the *Considerer* hath not changed the Terms, nor perplexed the *Case*, unless the *Reconsiderer* think that he is not obliged to make the one Part of his *Case* consistent with the other. 2. The *Considerer* behaved to have an Eye to the *Case-writer's* Corolaries concerning Acceptances, as that which explains and determines the Sense of his Toleration, which his Acceptances make to be somewhat else as a Bearing what we cannot get removed; and, so his Toleration is active and not passive. 3. If the *Case-writer* or *Reconsiderer* will allow Patronages to be sinful, it is no mistaken Inference, that they ought not to be accepted; and the *Considerer* should have constructed the best of the *Case-writer's* Toleration, if he had not asserted the Lawfulness of Acceptances.

In the same 17 Page the *Reconsiderer* proceeds to ask Questions; as, 1<sup>st</sup>, *If some Things be not more sinful than others?* To this it may be answered in the Words of our  
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Catechilm, *That some Sins, by reason of several Aggravations, are more bainous than others.*

Granting this, he asks a second Question, *If some Things are not so exceeding sinful, as not to be tolerated, or submitted to at any Rate, while other Things may?*

*Ans. 1.* The Considerer thinks it no shifting the Question, nor from the Purpose of the Case, to say, That what is sinful ought not to be accepted: And it is a new Piece of Stile, to say, That a Society may quietly submit to a Thing in any Degree sinful. *2.* The Considerer cannot perceive how he is chargeable with shifting, or drawing a wrong Inference, when he says, That what is sinful ought not to be accepted; it being one of the Case-writer's Corolaries, *That it is not unlawful to accept of a Presentation;* which explains his Toleration, and that he means not thereby our lying under what we cannot help, but our doing something in an active Way countenancing that Imposition. *3.* Tho' the Reconsiderer, p. 18. declines to espouse Voer's Reasoning, *That we may lawfully tolerate another Man's Sin, or rather make Use of a Good with which a Sin is accidentally connected, which Sin we ourselves cannot lawfully commit.* Yet its Reasonableness the Considerer doth not refuse, if fully and fairly quoted. But the Reconsiderer thought fit to leap over the Parenthesis in the Quotation, p. 35. of the Right, *Pietate illa versante immediate circa tolerantiam, non vero circa peccatum.* But I shall just now have Occasion to consider Voer's Toleration of Patronages.

But, before I proceed to that, I must remark on a Clause in the Reconsiderer's 181 Page, viz. *Nor did the Case-writer say, That limited Patronages were in a lesser Degree sinful.*

Upon this I cannot but observe, *1st,* That through the Whole of the Reconsiderer's Performance, he alledges, That the Patronages which now obtain, are limited Patronages. *2dly,* That limited Patronages are not in a lesser Degree sinful. *3dly,* From their not being in a lesser Degree sinful, he infers the Toleration of them, which still reduces him to an active Toleration, or, as he would



would have it called, an Approbation. So that, *4thly*, He must differ from our Commission and Assembly 1711, and 1712, who remonstrate against Patronages as unlawful: It is obvious, that they were not of the *Reconsiderer's* Opinion, as if Patronages were not in a lesser Degree sinful. I hope, the *Reconsiderer* will own, that the Vigour of our Church-constitution stood as firm then as now, and Patronages were as limited then as now, unless we would make Use of the Act 1719, which, upon the *Case-writer's* Principles of the Lawfulness of Acceptances, proves to be no Limitation at all.

In the same 18 Page the *Reconsiderer* says, *Admitting Patronages to be unlawful, as Mr. Voet does, yet on his Principles they might be tolerated.*

Upon this I may remark, *First*, That the *Reconsiderer* states himself upon an opposite Side to Mr. *Voet*, who looks on Patronages as unlawful; but the *Reconsiderer* will not say, That they are in a lesser Degree sinful: And when he would call that in learned Man to his Assistance, all the Condescendence he will make, in order to have him on his Side, is a Supposition of their being unlawful. So that, *Secondly*, The *Reconsiderer's* Toleration of Patronages must be as distinct in Proportion from *Voet's* Toleration, as they differ from one another in their Notion of their Lawfulness and Unlawfulness. The *Reconsiderer* will not say, They are sinful in a lesser Degree, therefore his Toleration must be active. *Voet* esteems them unlawful, therefore his Toleration must be only passive; that is, when he cannot help it, or when it is not in his Power to remove the Evil.

In the same Page the Author falls aboard of the *Considerer's* Distinction of active and passive Toleration, and says, *He cannot understand any Thing by an active Toleration, but an active Approbation; and in this Sense alledges, that the Case-writer was not pleading; and Voet, and others whom I could name, distinguish between Approbation and Toleration, but not betwixt active and passive Toleration.*

*Ans. 1st*, However much the *Reconsiderer* may judge the Distinction of active and passive Toleration needing Explication, it is no more inexplicable than his active Approbation, which supposes a passive Approbation.

*3dly,*

2dly, I should gladly hold the *Reconsiderer* at his Word, that he means not an active Approbation of Patronages; but this is not so consistent with the Doctrine of his Case concerning the Lawfulness of accepting Presentations, or of his Reconsiderations, p. 18, and 20. in which he will not say, that Patronages are in a lesser Degree sinful, or are in themselves sinful.

But, 3dly, Perhaps the *Reconsiderer* has Reasons that at present may prevail with him not to declare for an active Approbation of Patronages; therefore he will rest in a passive Approbation, which, in other Words, he expresses by a quiet submitting to them. I am of Opinion, that his passive Approbation will be like what he, p. 19. calls, *The Considerer's Groans a little too active.*

4thly, Because the *Reconsiderer* seems in this, and through his Performance, to brag, as if no Writer of Credit esteemed Patronages unlawful in themselves, and that *Voet*, whom in Derision he calls my Friend, brings not Patronages so low, as to be against a limited Patronage; I shall trouble the *Reconsiderer* with some Quotations from *Voet*, so contrary to his Account of him, that I'm afraid he will be found not to have taken the most honourable Way of parting me and my Friend; *Vide his Eccl. pol. Lib. 3. Tract. 2. Cap. 3. Cum bono Deo probabimus præensum illud jus, in se, injustum, malum, & Ecclesiis noxium esse; nulloque distinctionum aut limitationum auxilio ita posse transformari ut Patronus bona conscientia eo possit uti.* So that his Toleration must resolve into a passive Tolerance, that is, the Suffering under what cannot be got removed: We see he is absolutely against a limited Patronage, or the Exercise of it with any Limitations, very different from the *Reconsiderer*, who will not say that Patronages are in a lesser Degree sinful. But *Voet, Lib. 3. Tract. 2. Cap. 9.* when he is charged by One *Weberus* for the hard Names he gives to Patronages, he mends not the Matter by his Apology, *Si defectus est, si malum, si atrox, si pseudojus Pontificium, si repugnat juri & ordini Divino Apostolico, antiquo Ecclesiastico, quomodo possum illud probare, amare, laudare, tueri?* Now, join this with the former Quotation, and it shows his Indignation at Patronages

ges, however well limited: But the *Reconsiderer* commends them so far, that, p. 14. he says, *That Patronages are an instituted Right, generally thought very convenient to be superadded to a Minister's natural Right.* And so far is he for an active Approbation of them, that, Page 23. he says, *The Case supposes the Power of the Patron to be the same in Kind with the Power of the Magistrate in the present Debate.* Now all of us approve of the Power of the Magistrate *circa sacra*, and in the Provision of Ministers Stipends; so that from this we justly infer his Approbation of Patronages; for all orthodox Divines approve of the Magistrate's Power: And the *Reconsiderer*, I am afraid, must go over to the *Arminian* Camp for Divines to take Part with him in putting the Magistrate and the Patron on a Level, or of making their Powers to be the same in their Kind: But of this more afterwards.

5thly, I would fain the *Reconsiderer* would tell me what great Mystery there is in the Distinction of active and passive Toleration, more than in that of active and passive Obedience? The Parliament, with the Restoring of Patronages, gave a Toleration to the Episcopal Clergy; in this the Parliament was active: The Commission 1711, and Assembly 1712, remonstrate against this, and yet we are left to groan under the Burden; in this we are passive; A quite distinct Affair from the Parliament's Toleration.

6thly, What tho' none use the Words *active* and *passive* Toleration; yet these Examples serve to explain and support the Terms of the Distinction: And I shall not dispute it with the *Reconsiderer*, but that an active Toleration may be called an Approbation; yet I will give him an Author of approved Credit, who will support the Distinction of active and passive Toleration, and at the same Time bring in the *Case-writer* or *Reconsiderer* into an active Toleration; or, to use his own Words, into an Approbation of Patronages, drawn from his Doctrine concerning the Lawfulness of Acceptances, and that is the learned *Didoclauius*, in his *Altare Damascenum*, p. 601. *Actor est approbator, tolerator etiam si lubet, quia non solum in aliis tolerat, sed etiam in se, & sic non nudus tolerator, sed actor est. Qui non punit quæ tollere non potest,*

*potest, tolerare & quidem prudenter potest si non cessaverit ab omni studio emendandi, & sensum corrigendi; ut tandem tollere possit. At conformitas in ipso facto, est quid majus quam simplex toleratio & in malo nunquam tolerabilis.* Now, I leave it to any to judge, if the validating a Presentation by an Acceptance, be not a *conformitas in ipso facto*; or, if the *Reconsiderer's* quiet Submission, which issues in a Deed of Acceptance, can so well consist with the *studium emendandi*; so that *non nudus tolerator, sed actor est.*

7thly, Notwithstanding of all his Derision about parting my Friend *Voet* and me, he hath not put us so far asunder, but that he will be found supporting my Distinction of active and passive Toleration, and in the most convincing Manner condemning the *Case-writer* and *Reconsiderer* as to his Lawfulness of Acceptances, and quiet Submission to Patronages, by which, if all were of his Opinion, Posterity should either conclude that at this Time the Church of *Scotland* esteemed not Patronages a Grievance, or have failed in handing down to them a just Testimony against them. See *Voet. Eccl. pol. Lib. 3. Tract. 2. Cap. 7.* He asks, *Quid faciant Ecclesie, si nec rationibus, nec precibus apud Patronum, nec jure ordinario, nec autoritate Magistratus, quidquam obtineant?* Resp. *Omnibus frustra tentatis, & Ecclesiarum conditione perpetuam illam ministrorum penuriam non ferente, cedent injuriæ temporum, & malum illud tolerabunt, interim Patronum conscientie suæ, ac judicio Dei relinquentes, donec ad meliorem mentem redierit. Hoc tamen sedulo cavendum, ne ullis transactionibus videantur jus illud quasi approbare, atque ita Patroni conscientiam liberare. Ne etiam quidquid hac vice patiantur, sibi aut posteris cognitionem, concilia, jus & potestatem præscindant in posterum meliori occasione fermenti istius expurgationem postulandi. Quem in finem consultum esset actis Presbyteriorum, & classum hanc clausulam inseri: Illum modum vocationis hac vice toleratum (quia aliter fieri non potuit) non trahendum in consequentiam, nec in posterum præjudicaturum Ecclesie liberæ Electiones suas denovo repetendi.* Here the learned *Voet* is for dealing with the Patron's Conscience; and,



if nothing will prevail, the Church must tolerate, because better cannot be : But they are to take Care of freeing the Conscience of the Patron, insomuch as seeming by any Transactions to approve his Right ; and, whatever they may be obliged to suffer, that yet their Detestation of Patronages may be transmitted to Posterity, and Documents of this to be insert in Ecclesiastick Records. I am sure, this is quite other Doctrine than that of the *Case-writer* or *Reconsiderer*, who neither will call Patronages evil in themselves, nor a limited Patronage sinful, nor thinks it unlawful to accept of a Presentation, even before there be any Election, if the Acceptance suppose that to be had. Such Transacting with the Patron, *Voet* is not for ; and so two Friends, whether the *Reconsiderer* will or not, are not as yet parted : And I leave it to the *Reconsiderer* seriously to think of it, with what Veracity or Judgment he hath taken that learned Man to be on his Side ; or if he hath not more deeply endangered both, than (p. 77.) he reckons the *Considerer* to have done.

Because the *Considerer* had said, *That the Church must grogne under an undue Right*, which is no bad Explication of passive Toleration ; the *Reconsiderer*, p. 18. asks a Question, (for what Purpose, he himself best knows) *If the Parliament had imposed the Vestments, or Symbolical Rites on the Church of Scotland, whether she would have contented herself with groaning, and yet continued to submit to the Establishment on such Terms ?*

My first Answer shall be in the Words of the *Reconsiderer*, That she should rather take *Beza's* Advice to *Grindal* and the *English* Ministry, to chuse rather to live as private Men, than to enjoy their publick Ministry on sinful Terms. But then, 2. What is this Question to the Purpose, unless the accepting of Presentations were a Condition of our publick Ministry ? Would the *Reconsiderer* have them on the Footing on which they stood after the Restoration of King *Charles*, and the Establishment of Prelacy ? Presentations are now so far from being a Condition of our publick Ministry, that, were the Act 1719 duly improven, they would be a mere Nullity ; and the *Considerer* enjoys both his publick Ministry and Benefice, tho' he declined the accepting a Presentation, and

was settled in his present Charge during the Months of the Patron's Right. So that, 3. The accepting of Presentations is no Condition of our publick Ministry, tho' the *Reconsiderer* speaks as if he inclined it were so, that he might get quite of them, who can remain in this Church, as long as sinful Terms are not required of them.

4. His Instance of imposing the Vestments, and symbolical Rites on the Church of *Scotland*, and that of Patronages, are, tho' both unlawful, to be considered in different Manners. As to the Vestments and Rites, if I submit to the Law imposing them, I am undeniably an Actor; but, tho' the Patron do present, I may legally shun the being an Actor, for the Law doth not oblige me to accept. The *Case-Writer* who maintains the Lawfulness of accepting Presentations, he thereby becomes an Actor.

5. It is all along to be observed, That the *Reconsiderer* never offers any Thing to weaken my Reasonings; That seeing we are not in Law obliged to accept of Presentations, we might shake ourselves loose of the Grievance, by not accepting, this would not be a fleeing in the Face of the Law. But the *Reconsiderer* will have his Acceptances esteemed a convenient instituted Right, and therefore at the Close of his 18 *p.* we find him unwilling to determine Patronages to be in a lesser Degree sinful.

As to what he talks *p.* 19. of the *Considerer's* Groans, their being a little too active. I own, I think this Church should be most active in their Complaints against the Patrons Invasions on the Rights of Christian Societies; but it seems were they as loud as the Thunderings of Mount *Ætna*, the *Reconsiderer* is resolved to go on in his Defence of them; and tho sometimes he would pretend not to affect them, he would have them so softly handled, and quietly submitted to in the mean Time, as that I am afraid, according to his Way, the World might forget that ever they were thought gravaminous.

Before I proceed, I must look back to a Sentence of the *Reconsiderer's* in the 18 *p.* which he again revives without Reason or Connection, viz: the *Considerer's* Promise, which I suppose respects his never turning *Jacobite*. The *Considerer* can bid a Defiance to his Antagonist, and to all who ever knew him, to be able to

condescend on any the least Ground of suspecting him, and he hopes the *Reconsiderer* will remember his solemn Promises that Way also, that he never become a Prey to his *Popish* and *Jacobite* Relatives.

By this Time, I hope, the *Reconsiderer's* Fulness upon the Distinction of active and passive Toleration, will not weaken the Considerations advanced against the Arguments in the *Case*, if what I have with suitable Fulness opposed thereto, be duly weighed.

Page 19. The *Reconsiderer* seems to be in some Surprise, that upon the State of the Question in the *Case*, the *Considerer* should have said, That it was difficult to reconcile how a Church can make Pressing Instances to be eased of Patronages, and yet at the same Time to submit quietly to them. 1. I yet think there is some Difficulty in this, Pressing Instances and Remonstrances against a Thing, and yet a quiet Submission to that Thing, seem not to be consistent. 2. The *Reconsiderer's* refusing to call a limited Patronage unlawful, or that they are in a lesser Degree sinful, this explains the Nature of his Submission; for if he submit to them under the Notion of an instituted Right generally thought convenient, as he expresseth it, p. 14. his Submission will amount to an Approbation. 3. It would seem, his pressing Instances must strike against what he calls his *pleno jure* Presentations, and not against Presentations that now obtain; but I hope he will remember, that the Presentations which now obtain, are the same which obtained in 1712, and have undergone no Alterations except in the Act 1719; which upon the *Case-Writer's* Principles, as to Acceptances, is of no Use, and yet the Assembly 1712, looked on them as unlawful, remonstrate against them as contrary to our legal Security, particularly the Union-Treaty: But the *Reconsiderer*, p. 14. says, *They are an instituted Right generally thought convenient*. Perhaps that Time and Period of the Church doth not please him, and therefore, the Times being changed, he may with the better Grace differ from them.

In the same 19 Page, he says, *The Considerer hath misrepresented the Words of the Case*, but he hath not told wherein, and therefore he cannot expect a Correction, unless he

he had told the Fault ; only in general for a Vindication of the *Considerer* against such an indefinite Charge, it will be found he hath quoted nothing but what is in the *Case*, and I suppose the *Case-Writer* intended not that all the Value of his *Case* should ly in the second Concession.

In the same Page he alledges, *That the Considerer is so good, as to reconcile the Difficulty himself more than once, how a Church can quietly submit to Patronages, and yet make pressing Instances to be eased of them ;* and for this he quotes the Words of the *Considerer*, p. 28. It is evident the General Assembly 1712, thought the Law establishing Patronages a Grievance, and that the Assembly 1591 craved the Abolition of Patronages. I want to know how this reconciles the Difficulty. The *Reconsiderer* tells us, *That at the same Time they quietly submitted to them :* But did the *Considerer* say, that they quietly submitted to them ? No such Thing, this is an Invention of the *Reconsiderer's* : And their quiet submitting to them, is as false, as it is true that in 1712 they remonstrate against them as inconsistent with our Liberties and legal Security ; and that the Assembly 1591 pressed to have them abolished, and obliged all their Members to sign the Book of Policy, in which they are very expressly condemned. So that the *Reconsiderer* might either have passed by this Difficulty, as he doth a great many other Things, or else have offered something that might have had some Shadow of removing it.

What the *Reconsiderer* says, p. 19. *That the Case-Writer did not measure these pressing Instances of our Assemblies by passive Obligations, or he could not well have reconciled himself to quiet Submission.* If it have any Meaning at all, it is this, that the Church should be as active in their Submission to Patronages, as they were in the Years referred to in testifying against them. But this Expression may come in among these Things in his *Reconsiderations* not so intelligible : How fair the *Reconsiderer* hath kept his Promise, in passing many Passages in the *Right considered*, without calling them Nonsense, himself is best capable of judging his Sincerity that Way ; but the *Considerer* cannot miss observing, that the most of his *Reconsiderations* are Exceptions against



Words, and pretended Unintelligibilities ; strong Assertions, poor Twits and satyrical Reflections, being the peculiar Ornaments of his Performance : And he cannot say, that the *Considerer* deals in general and indefinite Charges ; whatever be his Exceptions, he 'condescends particularly upon them, which is not the *Reconsiderer's* Way ; tho' every Body will judge it to be the fairest Way.

Page 20. He tells us, *That the Case-Writer is not for wresting the Power out of the Hands of particular Patrons without Law, but waiting, tho' not without seasonable Addresses, to have the Power itself, or the Inconveniencies of it taken away, and is neither for Presbyteries or Patrons their acting pleno jure.*

*Ans.* 1. Tho' the *Reconsiderer* were more zealous against Patronages than he is, he knows that it is not in the Church's Hand to wrest the Power from them without Law ; but he is not for wresting the Power out of their Hands, even when it can be done legally, viz. by not accepting the Presentation ; for he supports the warrantableness of Acceptances, without which Presentations would be void and null in Law. 2. He distinguisheth between the Power of Patrons, and the Inconveniencies of Patronages, which Distinction serves rather to amuse his Reader, than to answer any good End ; for he will not call Patronages unlawful in themselves, nor unlawful with their present alledged Limitations ; therefore, according to him, the Patronages that now obtain need not be remonstrated against. 3. He hath before told us, that *pleno jure* Presentations were such as bore no Regard to the Church's Examination and Admission : Now, he had done better to have told us, wherever Presbyteries settled Ministers or conferred Benefices on them without Examination and Admission, than to have remonstrated against their doing that of which not one Instance can be given.

What the *Reconsiderer* hath immediately offered, he reckons will in some Measure remove another of the *Considerer's* Difficulties, viz. *How a Thing in itself Satanical (pleno jure Patronages) can be anywise lawful,* and adds, *That the Case spoke not of a Thing in itself Satanical, that afterwards becomes lawful, but of the Abuse*

*Abuse of a Thing, which by correcting the Abuse becomes tolerable.*

*Ans<sup>r</sup>.* 1. Seeing the *Reconsiderer* borrowed the Word *Satanical* from *Beza* upon Patronages, he must allow them in *Beza's* Sense to be *Satanical*, that is, as they were used in the Papacy, in which Examination and Admission did obtain. 2. It is difficult to reconcile the *Reconsiderer* with himself; in one Part of the 20 *p.* he says, He is not for Presbyteries acting *pleno jure*, that is, according to his Description of it *p.* 12. without Examination and Admission, and this Notion of *pleno jure* in the same Page he calls *Satanical*. Now, he must either say, that Presbyteries sometimes act without regard to Examination and Admission, or that Patronages are *Satanical* even where Examination and Admission do obtain, or else he shall never fix Presbyteries acting *pleno jure*. 3. It is obvious, that the *Reconsiderer* only looks on Patronages as unlawful by the Abuse of them, and not in themselves: And that he aims at something else as a Toleration of a limited Patronage, appears from the State of his Question in the *Case*, *p.* 5. To which he answers, *That they are not intolerable or unlawful*. 4. He doth not say, that it is not unlawful to tolerate them, as *Voet* hath it, *quando aliter fieri non potest*, when better may not be: Had he said so, and then had been against Acceptances, which are a Conformity *in ipso facto*, his Toleration might have been conceived of as passive, but he doth not say, that it is not unlawful to tolerate them, but that they are not intolerable or absolutely unlawful.

In this same 20 *p.* He alledges the *Considerer* carrieth his Mistakes along with him through all his Considerations. But whether he think them Mistakes or not, they are such, as if duly and justly stated in his own Words, he hath found no Occasion to retract by any Shock of the *Case-Writer's* Reconsiderations: And who serves most the Interest of Patrons, or espouses the Doctrine of *Erasmus*, any acquainted with the Title of the one, or the Doctrine of the other, shall have leave for me to judge: And as to the Charge against the *Considerer*, as reflecting on the Church of *Scotland*, for submitting to sinful Terms of her Establishment; what Truth or Solidity there is in that

Assertion, I refer to the 47 p. of the *Right considered*, saying no more at present, because this will come in again, for he deals much in Repetitions. I shall therefore proceed to take a View how he supports the Arguments of the *Case*.



## CHAP. II.

*Containing Remarks on the Reconsiderer's Defence of the Case-Writer's Arguments. In which the Reconsiderer's Opinion in putting the Christian Magistrate and the Patron on a Level in the Provision of Churches, and his Doctrine of the Lawfulness of a limited Patronage are enquired into; his mistaken Instances from this and the Belgick Churches, as favouring his limited Patronages, are set in another Light, from the Histories of these Churches, and the Writings of some of their learned Divines. The Reconsiderer's Disregard of the Second Book of Discipline is noticed; former Instances in the Right of Patronages considered, are supported; and some additional Instances are given of the Grievances by Presentations, and of the active Countenance of this Church to these.*

THE Reconsiderer begins his Defences by telling us, That the Case-Writer goes upon some plain Supposition, viz. 1. That the Power of Patrons, as now limited, cannot rob the Church of her due Right; and this

be expressed by privative Power, but strengthens her, securing to the Minister, duly elected and qualified, a Title in Law to enjoy and pursue for the Stipend, which the Law provides for Persons thus qualified and presented; and this be expressed by a cumulative Power. 2. That allowing a Minister to have all the Right the Considerer mentions, Ecclesiastical, Spiritual, or even Natural to his Tithes; yet the Civil-Laws may render it necessary, that he produce a Presentation as a Document of his Title to uplift his natural Tithes, and to distinguish him from any other claiming the same Natural Right.

The Considerer cannot miss observing, That unless it be the Story of the Patron's cumulative Power, and some ill-contrived Evasions the Reconsiderer, from his 21st to his 25th Page, hath not taken Notice of any of the Considerer's Answers to the first Argument of the Case, as they are contained in the 31st, 32d and 33d Pages of the Right considered, but hath filled up his fore-mentioned Pages with several Things not only extravagant and unsuitable to the Principles of a Presbyterian Minister, but also in some Things inconsistent with his own alledged or imaginary Scheme.

But, to remark upon, or answer the above Quotation, in which the Reconsiderer cannot say I have wrong'd him: 1. I would have him tell me candidly, if, in this Age of Improvement and Invention, he thinks the common Meaning and Acceptation of Words is so far changed, as that when the Act 10mo Anne restoring Patronages, says, That the Act 1690, concerning the calling of Ministers, had proven inconvenient, and occasioned Heats and Divisions, therefore Patrons are restored to their ancient Right: I say, Can it be inferred from this Act, that Patrons are so limited, as not to rob the Church of her due Rights, when the elective Power, which was in the Hands of the Congregation, is taken away and given to the Patron? 2. The Right considered, Page 32 and 33. hath shown, That Presentations are nowise necessary to secure to a Minister his Title in Law to his Benefice: For, in no Law that I know of, is the Provision made for him who shall be presented,



but for him who serves the Cure. If he be able to produce his Act of Admission, he will obtain all legal Diligence for his Stipend. 3. I would ask the *Reconsiderer*, To whom is it that the Presentation secures the legal Title? He answers me, Page 21. *To him who is qualified and presented*: So that, according to the *Reconsiderer*, he must be qualified and presented that he may have the Title; and he must be presented that the Title may be secure. A Stranger, who were unacquainted with what is Practice in this Matter, might, from the Words of the *Reconsiderer*, judge that there were two Presentations, a Presentation to give the Title, and a Presentation to secure the Title: But I know the *Reconsiderer* means only one Presentation; and therefore that there might be no Mistake, I wish he would be so good as tell us, Whether the Presentation gives the Title, or be given to secure a previous Title. If it give the Title, call it legal, or what you will, then the Minister hath no Title without it, tho' duly elected and admitted. If it only secure the Title, which is supposed to exist, or to have a real Foundation in Right or Claim, previous to that Security; then the Presentation should not be given till the Minister be admitted: For, if the Presentation give not the Title, but secures it in a legal Way, the Man presented must have a prior Title, which he cannot have without Admission. If the Presentation give the Title, then it is far more as the securing a Title. I am apprehensive the *Reconsiderer* will speak out, and not blind his Readers, as if Presentations were only a legal Security of a Title, and freely own that they give the Title; which if they do, How doth the Benefice follow the Office, unless the Patron have an elective Power of presenting to the Office, without which he cannot constitute a Title to the Benefice? 4. This may serve to answer what the *Reconsiderer* says, *That the Law may make it necessary, that a Minister produce a Presentation as a Document of his Title*. What the Laws may make necessary I cannot tell; but they have not as yet made Presentations necessary. 5. As to what the *Reconsiderer* very often mentions of a natural Right to Tithes, the *Considerer* adopted not that as his Opinion, but upon

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Supposition of their being due *jure naturale*, as some would have it, then the Foundation of the Patron's Title is razed. With respect to natural Right, the *Considerer* always meaneth that it is agreeable to the Principles of natural Equity, that he who is serviceable to a Society be maintained by that Society : So that, 6. It is a Man's being a Minister, and Minister of such a Place, that gives him a natural and instituted Right to the Stipend of that Place : So that his Admission to that Charge is the proper Document of that Title ; which being constituted and documented by his Admission, it is the Duty of the Magistrate to execute the Law for supporting and making effectual that Title.

Pages 21 and 22. The *Reconsiderer* *Supposes a Judicatory's dividing and ordaining two Ministers to the same Charge, each of which obtain an Extract of their Admission, but one equal to his Competitor in all Respects hath the Presentation, Who would stand fairest for the Stipend before a Civil Court ?*

*Ans. 1.* The *Reconsiderer* knows, that the Plurality of the Judicatory are the Court, and the Minority cannot regularly or safely execute a Deed in Opposition to the Majority, whose Communion and Society is otherwise to be kept up. 2. I answer in the Words of the *Reconsiderer*, That the supreme Judicatory will determine which of them is duly admitted, or will, if I may add, lay aside both. But then, Page 22. The *Reconsiderer* says, *This will gain him several Advantages, as 1. That the supreme Judicatory has the final Decision, which the Considerer of the Right calls a Piece of Story, which hath no Force of Argument.*

*Ans. 1.* By the Act of Parliament 1567, The supreme Judicatory hath the final Decision of Controversies relating to the Settlement of Churches and Presentations ; if they decide according to who hath the clearest Title by the Word of God, I am sure Patronages, having not the least Foundation there, will not influence a Decision on the Side of the Presentation. 2. The *Considerer* justly calls it a piece of Story which at present hath no Force of Argument, so many of our supreme Decisions being in favours of Presentations, and against them who are duly elected.

*Secondly,*

*Secondly*, Another Advantage the *Reconsiderer* thinks to gain by the Decision of the supreme Judicatory in his supposed controverted Admissions is, *This will reconcile the Considerer to the Necessity and Usefulness of Assemblies and Commissions, which is the Thing he complains of.*

*Ans. 1.* The *Considerer* needs not be reconciled to Assemblies and Commissions, unless he were against them; he honours and esteems every Judicatory of the Church of Christ, only it grieves him that any of them, who are clothed with such a Character, should, at this Day, in so many of their noted Decisions, be so untender of the Liberties of the Church, and the Privileges of its Members. 2. I wish the *Reconsiderer* had directed to any Page of the *Considerer*, where he says, *That Commissions and Assemblies are needless and useless.* He never said or wrote such a Word; but this must come in to the Account with our Author's other groundless Assertions. I heartily wish Assemblies may be directed to such Measures as may be for the Good of the Church, and may shew a just Regard to the Cries of Christian Congregations groaning under that sore Trial of having Ministers obtruded upon them, and their free Choice denied them. I also wish Commissions were so constituted, and their Meetings so ordered, as might best suit with the general Conveniency of this National Church. And I put the *Reconsiderer* to prove it, if ever I said or insinuate that Assemblies and Commissions were needless and useless; he will find no the least Shadow of such a foolish and impertinent Story in the *Right considered.*

*Thirdly*, Another Advantage he thinks to gain by the supreme Judicatory's determining, who is duly admitted, is, *If they decide for the Presentee, and so go wrong in our Author's Opinion, then the Difficulty will recur, both the other Candidate, having the same natural Right, will be able in any forum to recover that Right.*

*Ans. 1.* It was never the *Considerer's* Opinion, that an Assembly's deciding in favours of a Man presented was wrong, providing it be without Regard to the Presentation, and only because he was duly elected, and not because he was presented. 2. The other Candidate against whom the Deci-

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sion is, hath no Right to plead or recover before any *forum* Civil or Ecclesiastick, as to the Stipend of a Parish to which the supreme Judicatory hath declared his Relation void and null.

*Fourthly*, Another Advantage he reckons to gain by allowing the supreme Judicatory to determine, who is duly admitted is, *That an Assembly of the Considerer's Principles would determine against the Presentee. But then the Difficulty would return with greater Force, in Regard, 1. They decide against one who hath a natural Right equal in all Respects to the other, and has this cumulative Evidence of another Right to produce before a Civil Court, which, did he claim, would produce no good Effects.*

*Ans. 1.* I thought this had been set down by the *Reconsiderer* as a fourth Advantage, but if his Presentee should be dismiss'd by the Sentence of an Assembly, I am afraid he would conclude it unjust, let be an Advantage. *2.* If the *Reconsiderer* can produce an Instance where a Presbytery divided and settled two Persons, and then an Assembly determined in favours of the one by the other, he should have done it, and that would have cleared the Matter; but if he can bring forth any Instance of this Kind, he will find the Assembly hath laid aside both. *3.* It is not to be supposed, that an Assembly will determine for one, and against another, whose Rights are equal in all Respects, otherwise they should pass an unjust Sentence. *4.* As to what the *Reconsiderer* writes of the cumulative Evidence of another Right before a Civil Court, that is, by a Presentation, this may be said, that the Right of which he would have the Presentation to be the cumulative Evidence, is either an Ecclesiastick or a Civil Right: If it be an Ecclesiastick Right, then it belongs to the Ecclesiastick Court to judge of its Validity: If an Assembly determine it not to be good, then a Presentation, if insisted upon, is privative of the Church's Power, and not a cumulative Evidence of an Ecclesiastick Right, which, by such a Sentence of an Assembly, is found not to exist: But, if the *Reconsiderer* mean, that the Presentation is a cumulative Evidence of a Civil Right, then I ask him, What was it that gave that Civil Right?



Right? If it was the Presentation, then the Presentation is something else as a cumulative Evidence of Civil Right; but, if the Right flowed from a real or pretended Relation to a Parish, then according to the Act of Parliament 1567, tho' the Presentee be rejected by an Assembly, he must rest satisfied, because, according to that Act, the Case must rest as they have decided; and this is highly reasonable, no Man can justly plead the Benefice, but he who is Pastor duly settled: The supreme Judicatory hath the Power finally to determine this; but, according to the *Reconsiderer*, the rejected Presentee may make an After-claim, which, I am sure, can produce no bad Effects, if the Act of Parliament 1567, be observed: But, as it is not regarded as it ought, else we should not hear of Civil Sifts of Ecclesiastical Procedure, nor of supreme Judicatories their deciding in favours of Persons presented, tho' contrary to free Elections; so the *Reconsiderer* must either drop the Act of Parliament 1567, which he owns to be a great Restriction of Patrons, or he must drop his Reasonings for Persons presented, in which he would have Assemblies deciding in favours of the Presentee, tho' another hath the proper Right equal in all Respects to his. To conclude this Section, he having forgotten his *Secondly*, will excuse me that I say nothing upon it.

Pages 22 and 23. The *Reconsiderer* for the Support of the Patron's cumulative Power, which he thinks he hath explained, proceeds to Authorities, and produces two Witnesses whom he thinks the *Considerer* will not call *Erastian*, the one is the Author of *Altare Damascenum*; the other is *Chemnitius*, as quoted by *Voet* in his *Ecclesiastick Polity*.

*Answ. 1.* If the *Reconsiderer* duly think of it, it will be found, that, instead of explaining the Patron's cumulative Power, he hath rather involved the Matter: He tells us in his *Case*, p. 5. *That the Patron's cumulative Power secures the Title in a legal Way to the Person elected by the People, approved and received by the Church.* Now, giving, tho' not granting, that the Patron had a Right of conferring the Benefice, according to the *Case*, it behoved to be on the Person duly elected and approved by the Church; and yet, says the *Reconsiderer*, p.

22. *If an Assembly should decide against a Presentee, the Presentee hath a cumulative Evidence of Right to bring forth, which would produce bad Effects.* I am sure, if the Church shall determine another as the Presentee to be duly elected and admitted, the Presentation cannot be to another as the Man approved by the Church a cumulative Evidence of Right : If this were, it should be privative of the Church's Power, who have determined the Right in favours of another as the Presentee.

2. I would fain know for what End he quotes *Dido-clavius* or *Chemnitius* for the cumulative Power of the Patron, seeing they give no such Power to him, and *Dido-clavius* hath learnedly written against his Title.

But, p. 23. the *Reconsiderer* tells us, *That the Case supposes the Power of the Patron to be the same in Kind with the Power of the Magistrate in the present Debate, tho' subordinate and derived from the supreme Civil Authority.*

*Ans. 1.* That the Readers of his learned *Reconsiderations* may not be imposed upon, I am obliged to say, That it is a gross Misrepresentation that ever these learned Men said so. But, 2. If the *Reconsiderer* say, That this is deduceable from what they say concerning the Magistrate ; What do they say ? *Ans. Potestas principis non est privativa sed cumulativa* ; therefore, according to the *Reconsiderer*, the Patron's and Magistrate's Power in the present Debate is the same in Kind : But how doth it follow ? *Because*, says the *Reconsiderer*, *the Patron's Power is derived from the supreme Civil Authority.* To this he hath an Answer in the *Right considered*, p. 64. That it will not make a Thing materially just and lawful, that it be formally legal : An unlawful Power derived from the Magistrate, is not therefore lawful. The Magistrate, as a nursing Father, and an Ordinance of God, ought to exercise his Power in Defence of the Church in all her Rights and Privileges, and to see that the Ministers thereof be provided for as the Word of God directs, and to interpose his Authority, that the Livings settled on Ministers be duly given them, and them only who are duly elected and admitted : But, according to

to the *Reconsiderer*, the Christian Magistrate, who is under such Obligations, may impose Patronages, and make their Presentations and the accepting of them necessary Conditions of a Minister's Right to his Stipend. 3. The *Reconsiderer* knows, that all of us own the Lawfulness of the Magistrate's Power, and that the Christian Magistrate hath a Power *circa sacra*; so that to put the Patron and the Christian Magistrate upon a Level, in the Provision of Ministers, is as much as to say, That the Power of the Patron is a lawful Power, a Power warranted by the Word of God: This is a pretty clear Indication of the *Reconsiderer's* Respects to Patronages.

4. How can the Power of the Patron be the same with the Power of the Magistrate, in this Matter? The Patron hath his usurped Right, as his Estate, as his Inheritance, as his Patrimony, which he may dispoise and make Sale of; the Magistrate hath no such Right or Power. 5. The *Reconsiderer* will never be able to prove, that Patrons originally derived their Power from the Magistrate. The Right of presenting to Churches, is justly and originally in the Hands of the Church; and these who endowed Churches, for some Months, got that Power lodged in their Hands; they got this Privilege, through the Sloth, and Flattery, and Connivance, of a corrupt Church. It will be impossible for our Patrons, to prove their Right from a Grant or Concession of the Church; yet they fly to this, and I only refer to this, as a good Answer to the *Reconsiderer*, who would have them deriving their Power from the Magistrate. Gray, in his *Systeme of English Ecclesiastical Law*, tho' he would alledge the Concession of the Church as to the Patron's Right, which he will not be able to prove; yet he proves against the *Reconsiderer*, both from the Nature of the Patron's Right, and the Manner of its Derivation, that it is neither derived from the Magistrate, nor is a Civil Trust, or is a Temporal Inheritance, p. 254. In Answer to that Question, *Is the Right of Patronage a Temporal Inheritance?* Answ. *It is a Trust vested in the Hands of the Patrons, by Consent of the Bishops, for the Good of the Church and Religion; nor does it follow, from the Patron's being vested with that Right by common Law, or*

*from*

from its being annexed to a Temporal Inheritance, That it is itself a Temporal Inheritance, or ought, legally speaking, to be considered otherwise, than as a Spiritual Trust, a Trust of a Spiritual Nature, and for Spiritual Ends, resting in the same Person to whom the Temporal Inheritance doth belong. So that, according to them who are for maintaining the Patron's Title, it is a Trust, Title and Power, different from that of the Civil Magistrate. 6. From what is said it may appear, That, upon this Head of cumulative Power, as well as on other Accounts, the Power of the Magistrate, and of the Patron, is not the same in Kind: But if the Magistrate shall assume a privative Power, a Power of annulling Elections duly made, or a Power of hindring Elections from being made, I shall not refuse, but, in this Way, the usurping Patron, and tyrannical Magistrate may plead Consanguinity.

Page 23. The Reconsiderer pretends from Voet, to transcribe the Words of Chemnitius; *Ecclesiasticus status debet consulere de persona idonea, popularis approbare, politicus decernere*; and, a little after, *optimum erit, si ecclesia ministerium eligat, ordinet, examinet, magistratus nominet, decernat, & confirmet, popularis approbet*. Says the Reconsiderer, "Q! what an *Erastian* was this, to give the Nomination and Confirmation to the Magistrate, he is worse than the *Case-writer*."

Answer 1. The Thing the Reconsiderer undertook to prove, was, That the Power of the Magistrate and of the Patron, was the same in Kind, in the present Debate; Now, is there any thing in this Quotation serving his Purpose? Is not Voet, in the Place referred to, strenuously disputing against Patronages? 2. As Patronages are a mere human Invention, of no Use or Necessity in the Church of God; so I have shewn, that the Power given the Patron by the Laws, is an elective Power, such a Power the Magistrate hath not, and so he cannot give what he hath not himself. After that Voet had written at great Length against Patronages, Par. 2. Lib. 3. Tract. 2. p. 657, 658. he says, *Adde nunc omnes supradictos, qui probant vocationem & electionem ministro-*  
rum,



*rum, pertinere ad presbiterium & ecclesiam*; First, these  
 'who deny Election to be in the Power of the Magistrate,  
 'and so he quotes Gerson Bucer, Francise Junius, and  
 'others; and then, from Haveman, he quotes Chemnitii-  
 'us, proving the Calling and Election of Ministers not to  
 'be in the Magistrate.' Lest I be thought to wrong it, I  
 shall give it in the Original; *Sicut pontifex Romanus*  
*in eo commisit sacrilegium cum suis, quod electionem*  
*& vocationem ministrorum eripuit ecclesie, & ad se so-*  
*lum suosque transtulit. Ita ejusdem criminis reus est ma-*  
*gistratus, quando excluso ministerio, & reliqua ecclesia*  
*sibi soli potestatem constituendi ministerii in ecclesia vin-*  
*dicat.* And, to shew the World with what Mistake the  
*Reconsiderer* hath read Voet, the Words of his first Quo-  
 tation, are not the Words of Chemnitius, but of one  
 Renking, which I shall not translate. *Ipsam vocatio-*  
*nem non pertinere ad jus politiæ; quare cum ex triplici*  
*statu constet ecclesia, Ecclesiastico, sub quo pastores, Poli-*  
*tico, sub quo magistratus, & Populari, sub quo quisvis*  
*de populo, singulis sue partes debentur. Ecclesiasticus*  
*status debet consulere de persona idonea, popularis appro-*  
*bare, politicus decernere.* So little Regard is to be given  
 to the *Reconsiderer's* Quotations from Voet, that the  
 Quotations, first or last, as the Words of Chemnitius, or  
 as Voet's own Words, belong to a large Quotation of Voet's,  
 from Michael Havemannus, a Divine of the Au-  
 gustan Confession, who says, in his *Helice Hierotastica*,  
 p. 150. *Errant pontificii, qui jus vocandi ministros ec-*  
*clesie, tantum restringunt ad pontificem et episcopos.*  
*Errant pseudopolitici & Arminiani, qui hoc jus vocandi*  
*referunt ad regalia magistratus;* and so he, (Haveman)  
 goes on quoting Chemnitius, Renking, and others. And,  
 p. 154. of the same Haveman, and not of Chemnitius,  
 as the *Reconsiderer* would have his Readers believe, we  
 have his second Quotation. *Optimum erit si ecclesia mi-*  
*nisterium eligat, examinet, ordinet; magistratus nomi-*  
*net, decernat, confirmet, populus approbet;* and if the  
*Reconsiderer* had written out the whole Paragraph, he  
 would have had the Satisfaction of seeing himself consu-  
 ted thereby, in what he alleges p. 26. as if the Belgick  
 Patrons had been worse as the English. Voet adds, *Ubi*  
 hoc

*hoc saltem innuit, patrono aut magistratui electionem non competere. Atqui patronatus qui hodie in Belgio, & alibi prætenditur & usurpatur, eligit ( & non tantum nominat, ac commendat aliquem ) absque episcopi aut presbiterii, aut classis, electione & constitutione, eumque solummodo offert classi, ut eum examinet, & in ministerio confirmet, seu in ministerium & ecclesiam introducat.* Now, as the *Reconsiderer* hath quoted his Authors most falsely; so he hath quoted them to prove a quite different Thing from what *Voet* had in Hand, and for a different End for which he quotes them. Our Patronage-Act discharges any Elections except by the Patron, and the above Authors deny any such Power to the Magistrate, far more to the Patron: So that, if our *Reconsiderer* will yet have the Power of the Magistrate and Patron, in the present Debate, to be the same in Kind, he must differ from *Chemnitius*, and others, whom, in *Chemnitius's* Stead, he hath learnedly quoted, and be ranked among them of whom *Haveman* saith, *Errant pseudopolitici, & Arminiani, qui hoc jus vocandi referunt ad regalia magistratus.*

Page 24. I shall not dispute with him his Quotation from *Sopingius*, *That it belongs to the Christian Magistrate, to give the Benefice to him who is duly elected and admitted*; But then, what makes he of this? Will this say any Thing for the Patron? Will this prove his Power to be the same in Kind with the Magistrate's, in this Matter? Surely no; Is not the Christian Magistrate bound in Duty to provide the Ministry? Can he lawfully impose Conditions of this Provision, prejudicial to the Church's Right, such as that of Patronages? No, he cannot; if he act the Christian Magistrate, he is to take Care of the Minister's Provision, he is to concur with the Church in protecting their Right of electing their Pastors, and he is to make their Provision effectual, neither imposing nor requiring any Terms, but what are warranted by the Word of God.

I can assure the *Reconsiderer*, I am far from being angry with him for making Use of *Voet's* Authority, if he had quoted fairly; but, I think, I have made it appear beyond Contradiction, how much he hath wretchedly

misrepresented his Authors: From all which it is plain, that they are for the Church's free Election, and that they are not for this Power its being in the Hand of the Magistrate, far less of the Patron; but, that it is the Duty of the Christian Magistrate, to see that Ministers be provided with Livings, and concur with, and approve of, free Elections. But, says the *Reconsiderer*, Voet is for me in this Point. In what Point? That the Power of the Magistrate and the Patron is the same in Kind, in the present Debate? I leave it to the unbiaſſed Reader of the Quotations, if they are not againſt the *Reconsiderer*; and Voet, who, *Par. 2. Lib. 3. Tract. 2.* calls the Right of Patronage *in itſelf unjuſt, evil, and hurtful to the Church*, and that which the Patron cannot uſe with a good Conſcience, would never admit this unjuſt and hurtful Right, to have a cumulative Power, the ſame in Kind with the Magiſtrate, whoſe Power is juſt, right and lawful, and profitable for the Church.

But it ſeems there were ſome ſuch Diſputants as the *Reconsiderer* in the Days of Voet, who argued from the Power of the Magiſtrate to that of the Patron, or were for making their Power the ſame in Kind, in the preſent Debate; as we may ſee in the third Objection, *Par. 2. L. 3. Tract. 2. Cap. 6.* to which he answers, *Non valet confequentia a magiſtratu ad patronum, a poteſtate magiſtratus circa ſacra, ad juſ patroni. Deinde non competere magiſtratui poteſtatem eccleſiaſticam formaliter ſic dictam, conſequenter nec poteſtatem conſtituendi, & vocandi miniſtros.* And becauſe the *Reconsiderer*, as if he had won, cries out, *“O what an Eraſtian was this!* meaning the falſely quoted Chemnitius, and that Voet ſpoke like a modern Eraſtian, in what he allows the Magiſtrate about the Election of Miniſters: His own Words will ſpeak beſt for him, *Eccl. pol. p. 2. Lib. 3. Tract. 2. Cap. 3. Non diſputari hic, an magiſtratui competat poteſtas aliqua circa ſacra, ſpecialiter circa vocationes miniſtrorum. An conveniat illi qua membrum eccleſiæ, quidquid aliis omnibus convenit. An qua magiſtratus peculiaris poteſtas.* Then he ſhews, in ſundry Particulars, what a Power is competent for the Magiſtrate; as, *1. Removendi impedi-  
menta coactive. 2. Conſervandi & defendendi legiti-  
ma*

*vocationis media, & ordinem ecclesiasticum legitime ab ecclesiis constitutum, receptum, observatum.* 3. *Subsequente consensu, approbatione, judicio, & ratihabitatione sua, factam electionem confirmandi.* Now, let the Reconsiderer cry out to the World's End, *O what an Eraſtian was this!* it ſhall not move me, leaving it to the World to judge, who hath ſuffered moſt by the Quotations from Voet, He or I; He, who makes the World believe that learned Man and others to write other Things than they really did write; or I, who, without partial or falſe Quotation, Mask or Diſguiſe, have given you their Words, and particularly directed you where to find them, in Caſe any ſuſpect a Miſquotation.

Be cauſe, Page 32. of the Right, the Conſiderer had ſaid, That Preſentations are given before the Man preſented be elected and approved by the Church, and ſo cannot be ſaid to ſecure a Title in a legal Way to One duly elected; The Reconsiderer, p. 24. ſays, 1. *That the Conſiderer's Inſtances are very unſfairly repreſented.* 2. *That if the Preſentation did preceed the Election, particularly Crimond and New-machar, he ſhould have told us who were to blame: The Patrons, who addreſſed the Presbytery, previous to the Exerciſe of their Right, for a Moderation; or the Presbytery, who reſuſed it, till the Right ſhould devolve on them.*

*Anſw.* 1. If the Conſiderer's Inſtances be miſrepreſented, he ſhould have told wherein; but he deals in Generals, ſo that the Conſiderer knows not what to diſprove or correct. 2. He cannot reſuſe but at *Crimond* and *New-machar* the Preſentation preceeded Election, but he would blame the Presbyteries for all; *Nero* like, firſt kindle the City, and then caſt the Blame upon the Chriſtians.

I ſhall begin with the Inſtance of *New-machar*; and the Caſe was thus, (deſying the Reconsiderer, or his Confederates, to diſprove it:) The Presbytery of *Aberdeen* having met, *March 26. 1729*, to conſider the Affair of Profeſſor *Simſon*, had a Petition laid before them by one Heritor, and one Elder, craving the Moderation of a Call; but, conſidering the Importance of the Affair before them,



delayed the Consideration of that Petition to the 4. of *April*. Being then met, tho' they found the foresaid Petition not regularly proceeded in, its not being signed at a Meeting of Heritors and Elders, but signed at different Places, and bearing no Witnesses to the Subscriptions, and wanting the Subscriptions of several Heritors and Elders; yet, to leave them no Ground of Complaint, appointed a Meeting at *New-machar*, to be the 4. of *June*, then to moderate in a Call. Tho' the Presbytery might be said to be too precipitant in this Appointment, considering how unduly they were applied, yet the Petitioners protested: And when the Presbytery met *April* 16. a Presentation was given in by the *Old-Town* College, who pretend to be Patrons, worthily requiring a Meeting for receiving the Presentee's Acceptance. The Presbytery being obliged to meet the 22. of *April*, the Commissioners from the University gave in a Petition, signifying, "That if the Presbytery would order a Moderation before the 14. of *May*, they would at present withdraw their Presentation." This the Presbytery did refuse; 1<sup>st</sup>, Because it was not convenient to set about that Work in Time of the Assembly, when several of their Members were absent. 2<sup>dly</sup>, Because the Provost of *Aberdeen*, present in the Presbytery, declared, "That, tho' the Town of *Aberdeen* had a very considerable Interest in that Parish, they were never advertised of any such Design." Upon this a famous Letter of Acceptance was given in, and the Presbytery required to proceed to the Admission of the Presentee; a Method, not unlike the *Reconsiderer's* Notion of *pleno jure*. This is a fair Representation of that Affair, so far as concerned the Presbytery's proceeding in the Moderation of a Call; and I think the Fault will land on the Patron, and not upon the Presbytery.

Then, as to the Instance of *Crimond*, it is so far from being true, that the Presbytery of *Deer* refused a Moderation within the Months of the Patron's subsisting Right, that they really met for the Moderation of a Call before the six Months were expired. When met, they thought themselves obliged to delay proceeding, because of Informations of gross Corruption and Concussion, which

which affected the Person afterwards presented; which Delay was really hurtful to that Affair, the Plurality of Elders, and a great many Heads of Families that Day petitioning in Favours of another than the Man afterwards presented. This was the 12. of *March*, and the Presbytery only delayed to the first *Tuesday* of *April* thereafter, that they might advise the Matter with the Synod. After which they met the 22. of *April*, but some of the Parishoners pleaded a Delay, because they had some Things of Importance in the present Affair to lay before the Presbytery; the Delay was no longer as to the 5. of *May*. But that being a few Days after the Expiration of the Patron's Right, to make all sure against the Opposition from the People, that very 22. of *April* a Presentation was given in, which was found accepted by the Presbytee *April* 21. the Day before the Presbytery met; an Evidence that they were not to trust to the Presbytery in what they might do. This is an Account of that Affair collected from the Prints on both Sides, forbearing to mention Things wherein the one Print differs from the other: And, after this fair and true Account, none but a most rigid Defender of Patronages will condemn the Presbytery. So that it will hold true, for all that the *Reconsiderer* can say to the contrary, that Presentations are given previous to Elections, and without due Regard to due Elections. And tho' it were true that Patronages were as limited as the *Reconsiderer* pretends they are, his two Instances of *Crimond* and *New-machar* are unlucky for proving the Point; for, according to these, Presbyteries must either proceed precipitantly in Matters of the greatest Importance, or be imbarressed with Presentations; an Argument, in my Opinion, against Patronages, tho' it seems the *Reconsiderer* would improve it for their Defence, or at least for the Exercise of their Right in some particular Instances.

Page 24. The *Reconsiderer* says, *That the Author is answered about the foro civili, so far as intelligible.*

*Ans.* The *Considerer* thinks it not unintelligible to distinguish between what is necessary in *foro civili*, and what is necessary in *foro Ecclesiastico*. If the *Reconsiderer* will allow Patronages not to be necessary in *foro Ecclesiastico*, that is, to give a Man a Right or Title to a

Parish, then they cannot be necessary *in foro civili*, to give a Minister a Right to the Stipend of that Parish; for the Benefice follows the Office, and none hath a Right to the Stipend of a Parish, but he who is duly admitted Minister of that Parish: For, if, upon a Document of his Admission, the Magistrate interpose not his Authority to make the Living forthcoming to him, unless he hath been presented by a Patron, the Patron's Power is not cumulative, but privative of the Church's Right.

Pages 24 and 25, The *Reconsiderer* gives three Answers to a Question in the *Right*, If the Patron should not find the Moyer to have his Presentation made good in Law by an Acceptance, would not the Person duly admitted obtain all Diligence for his Stipend *in foro civili*? He answers this, *First*, By asking a Question, *Whether, if every Body were of Mr. Glas's Principles, to think the Terms of our Establishment sinful, we would have the Face of an established Church?*

After I have observ'd that the *Reconsiderer* passes over another Question in the *Right*, viz. *If a Patron should not hinder a Minister's Settlement within the six Months of his pretended Right, would not the Minister duly admitted have the legal Title to the Benefice?* I now answer his Query on the first Answer. That his Query hath no Sense or Meaning, unless he think the Accepting of Presentations a Term of our legal Establishment; if he do so, he condemns the Assembly 1712, who esteemed Patronages an Encroachment on our legal Security; and also there is no Civil Law making Patronages a Term of our Establishment: And I am sure, whatever be Mr. Glas's Principles, which are impertinently brought in here, we can very well have the Face of a Church, yea of a legally established Church, tho' not one Presentation were accepted. So that the *Reconsiderer* shifts the Question.

His second Answer to the Question is, *Tho' the Patron should not get his Presentation accepted, where is the great Odds if the Person admitted accept of a Right by Presentation from the Hands of a Moderator?*

*Answer* 1. If the *Reconsiderer* mean by accepting of a Right by Presentation from the Hands of a Moderator,

a Presbyterial Call, the *Considerer*, Pages 56 and 57 of the *Right*, hath shown, that Presbyteries and Patrons are not on a Level; and shall say no more to it here, till I come to his Remarks thereupon. But, 2. If he mean the Moderator's giving the Patron's Presentation to the Presentee, and his receiving it, I say, it ought neither to be given nor received, whatever may be practised this Way designedly by some, or inadvertently by others: But our Question is about a formal Acceptance, which the *Reconsiderer*, p. 14. reckons a Condition and instituted Right, generally thought convenient: And still the Question is shifted, If a Minister duly admitted, who hath declined to accept of a Presentation from the Patron, would not obtain all Diligence for his Stipend?

The *Reconsiderer*'s third Answer is, *That, since Assemblies have not thought it sinful to accept, I can hardly suppose the Patrons to find none but Men of our Author's Principles, that think an Acceptance sinful; and if they offer Presentations under fewer Instruments than 5000, if a free Moderation be allowed, it is a Thousand and One but they get 500 to accept.*

*Ans. 1.* I would ask the *Reconsiderer*, If in the least this be an Answer to the Question of a Minister's making out his Title to his Stipend, tho' he never accept of a Presentation? I am sure it is not. 2. Seeing Acceptances are an active Countenance to, and Support of, Presentations, they must be sinful; and if Assemblies have not judged so by any Act against Acceptances, more is the Pity, especially when this would have been so satisfying to many Members of this Church, and would have prevented so many Disturbances and Invasions of Christian Rights, which have flowed from the accepting of Presentations. 3. That 500 will be ready to accept of Presentations, shews the prevailing Corruption of the Time, but is no Answer to my Question; so that the *Reconsiderer* lets it stand without an Answer, filling the Field with some other Things, as if the *Considerer* would think himself answered by the Numbers 1, 2, 3, which are so little to the Purpose, that he might as well have said, East and West, South and North.



I come now to the *Reconsiderer's* Support of the second Argument of the Case, which the *Considerer* thinks such a Piece of Story, as not to prove what the Case design'd: For, in Answer to his Question in the Case, after he hath stated it, p. 5. he says, *Patronages are not intolerable or unlawful*. So that, had he given a Proof, it should have been, that they are not only tolerable, but also lawful. But, not having touched this, his Argument is of no Effect. And, if the *Reconsiderer* had offered any Thing to answer the *Considerer's* Remark on the second Argument of the Case, it should have been by producing Instances, in which late Assemblies and Commissions supported the Choice of Parishes in Opposition to the Patron; or he should have disproved the Instances condescended upon by the *Considerer*, and not have passed over the Matter with a Piece of Ribaldry, as if the *Considerer* had had nothing to say on his second Argument as scolding Assemblies and Commissions. And I put the *Reconsiderer* to prove, or to condescend on these late frequent Decisions against People and Patron, so much upon the *Considerer's* Side, desying him to condescend on any one Instance of this Kind, where the Person could justly or reasonably be sustained.

Page 25. The *Reconsiderer* proceeds to the Vindication of the third Argument of the Case; and, after he hath repeated what we got before, *That Voet had brought the Patronage-right lower than any other Writer of Credit*; as if *Rutherford*, and other pious and learned Men, who brought the Patronage-right as low as *Voet* hath done, were no Writers of Credit. After such Treatment of Men so justly honoured in the Churches, and esteemed of by the most Learned, both at home and abroad, it may be allowed him to scold and condemn the *Considerer*: Or it may be wondred how a Man of his distinguishing Learning, or of such superior Credit to *Didoclavius*, *Rutherford*, *Gillespie*, *Park* and others, would have thought the *Considerer* worth his Pains. The first Thing he notices is, *That the Considerer storms because the Case-writer had taken his Friend Voet from him*.

Ans<sup>r</sup>. He hath been so far from taking my Friend from me, that he grossly misrepresents him, and, as I have

have shown, on so blind Terms hath he adjusted the Matter with him, that he quotes him in some Places for the Proof of the quite contrary of that for which that learned Man wrote such Words. And I have proven it to a Demonstration, that he hath so slightly read my Friend, that he hath not been able to distinguish between a Quotation from *Chemnitius*, and a Quotation from another; and if these be the Terms of adjusting the Matter with *Voet*, there hath been a Trick or Mistake in the Bargain; for, were that learned Man looking up, he would reckon he had met with new Disputants indeed, who would bring him in quoting Words from Authors, which either they never said, or he never offered from them.

Page 25, 26. The *Reconsiderer* pretends to show, why he quoted not *Maresius*, *Because he admits of the ancient Distinction of Beneficia Electiva & Collativa, and thinks the Force of Discipline strong enough under the Belgick Patrons, which neither Voet nor the Case-writer would agree to; If it be true that Voet says, That there was no Room for a free Election, and that the Belgick Patrons were worse than the English or Popish, leaving no Way to reject the Presentee, that among the Papists it was limitatum dependens jus, but not so in Holland, ibi erat Præambulum vocationis, hic vocatio ipsa & electio. And then adds, That Voet never refused Patronages to be intolerable, nor distinguisheth between active and passive Tolerance, but says, aliud est probare, aliud tolerare.*

Ans. 1. *Maresius* tells us, *Satis antiqua est distinctio inter beneficia electiva & collativa*; but, doth he approve of the Distinction? or not rather shist the calling them unjust and unlawful, which *Voet* does? and doth not the *Reconsiderer* or *Case-Writer* the same? Tho' *Maresius* doth not say, That Patronages have a divine Warrant more as doth the *Case-Writer* or *Reconsiderer*, yet he thinks the Force of Discipline strong enough under the Belgick Patrons to keep out unworthy Men; and doth not the *Case-Writer* think the same of our Patronages, which, he says, are limited by the Vigour of our Church-constitution? And, seeing he agrees so well with *Maresius*, and owns *Voet* not to agree with him, what the *Considerer* had said of *Maresius* and *Voet*, their being Antipodes

podes in this Matter, will stand good against his Exceptions, p. 27; and not *Voet's*, but *Maresius's* Doctrine, will reconcile to the *Case*; *Maresius* being for active Countenance to this human Invention, and the *Case-Writer* by his Doctrine of Acceptances, and Practice in Church-judicatories, is for the same; and the long Quotation from *Voet* is sufficient to show, that he was only for a passive Tolerance: And, as the *Reconsiderer* refers to what he had said on active and passive Toleration; so do I to what I have said on the same Distinction, in which I have shown, that the accepting of a Presentation is a *conformitas in ipso facto*, and so the *Acceptor* or the *Defender* of Acceptances, *non est nudus tolerator, sed actor*. 2. As to what he says of the Difference betwixt the *English* or *Popish* and *Belgick* Patrons, I shall observe, 1<sup>st</sup>, That the *Reconsiderer* puts the *English* and *Popish* Patrons in the same Class; now, it is undeniable that our second Book of Discipline is against the *Popish* Patrons, and consequently against the *English*. 2<sup>dly</sup>, The *Belgick* Patrons were as well limited as our present Patrons, except as to the Act 1719, concerning Acceptances, which the *Accepters* render of none Effect; for the *Belgick* Presentee behoved to be examined and admitted by the Church; and the Act *decimo Annæ* restores Patrons without any other Limitations. 3. These Patrons that are properly *English*, together with the *Popish* Patrons, as I have shown from the Council of *Trent*, and from *Grey's* System of *English* Ecclesiastick Law, were obliged to document their Right before the Ecclesiastick Judges: And, if such a Privilege as this obtained not in *Holland*, their Patrons being obliged to document their Right before the States, the Patron's Power there did not arise higher than it doth now in *Scotland*, otherwise the Civil Judges would not interpose their Silts of Ecclesiastical Procedure in Cases where there are Presentations. But, 4<sup>thly</sup>, *Voet*, par. 2. lib. 3. tract. 2. Cap. 4. condescends on several Privileges, too tedious here to be set down, which the *Belgick* Churches and the *Papists* had, which we have not. I shall only mention one; The *Belgick* and *Popish* Patrons lose their Right by *Herefy*, but our Patrons retain their Right, only they make temporary Assignations as to the Exercise of

it. 5thly, Voet says, *That in the Papacy the Presentation was only a Preamble of the Call, but not the Election*; a plain Intimation from his Authority, if the *Reconsiderer* would regard it, that even in the *Papacy* they claimed an Election, which he proves from the History of the Bishops of *Utrecht*. But, by the Act *decimo Anne*, Presentations are not only a Preamble of the Call, but also the very Election, their Power being restored with a Repeal of the Act 1690 in favours of the Congregation's Right. These Things may show how far both *Maresius* and the *Case-Writer* are Antipodes to Voet's Doctrine; and the *Considerer* shall take his Hazard of the Loss, judging the *Reconsiderer* will gain nothing by his Scrap of Quotation, p. 27. from Voet, *Posse quem alterius peccato recte uti*, and he might have added, *tolerare*, together with the Parenthesis, *pietate illa versante non circa peccatum, sed circa toleratiam, & quando aliter fieri non potest*. I shall allow him in his next Performance to tell the World what he hath won, allowing his Intelligenceship to criticise on it as long as he pleases: But, seeing he gives this Paraphrase of the forementioned Quotation, *That tho' it were a Sin to present, yet it might be no Sin to accept*; Left he think his Paraphrase neglected or unanswerable, asking leave of his Intelligence, I hope he will not except against my Paraphrase on his Paraphrase, viz. If I can discourage a Man in the Commission of Sin, I sin if I do it not; *Qui non velit peccare dum possit, jubet*: With all Respect to the intelligent *Reconsiderer's* Logicks, this will hold to be good *Ethicks*. Now, if I accept not a Presentation, I discourage the Patron from presenting, because his Presentation is null in Law if not accepted: If I do any Thing that I possibly can avoid, which tends to strengthen the Hands of a Man committing Sin, I sin; but the accepting of Presentations doth so. I shall ware the one Paraphrase upon the other; but, lest the intelligent *Reconsiderer* should have met with this, he is very careful not to call it a Sin to present, he speaks only by Way of Supposition, *Tho' it were a Sin*.

Page 26. The *Reconsiderer* says, "That Voet admits  
 " of the Concession of *Sibrandus Lubertus* to *Grotius*,  
 " Re-



“ Relinque Ecclesiæ libertatem eligendi Ministros, &  
 “ non movebit tibi litem de præsentatione.

*Ans. 1.* How Voet admits of the Concession of *Lubertus* will be best seen in his own Words, *p. 2. lib. 3. tract. 2. cap. 7. De Patronis qui sunt Toparchæ aut Magistratu funguntur* (quos præcipue respicere eum putamus) hic non queretur, sed de aliis quibuscunque, &c. *Conditio hæc accipi debeat tanquam minus incommodum aliquod, si quidem nihil melius obtineri potest.* The Plain of the Matter is this, Voet takes *Sibrandus* to be speaking of such Patrons as were Governors of Places, and Magistrates, whom he allows, as Magistrates, a Consideration as Consenters to, and Approvers of the Election of Ministers, and not of other Patrons; and he reckons *Lubertus* is speaking of the least inconvenient Method. When nothing better can be obtained, we must bear Hardships, and improve any remaining Liberty, when better may not be. But, 2. This Uptaking of *Lubertus* will hold out the better, if we look into his Book, intituled, *SIBRANDI LUBERTI responsio ad pietatem HUGONIS GROTII*: After he hath asserted and proven the Method and Right of electing Ministers, *p. 164.* he shews what belongs to the Magistrate in this Matter, exactly agreeing with Voet. *ECCLESIAE FRISICÆ communi consensu eligunt Ministros, eosque ab Ecclesia electos confirmat Magistratus, priusquam a cæteris pastoribus admittantur*; and that *Grotius*, who ascribed too much to the Magistrate in the Election of Ministers, as much, yea more than their *Reconsiderer's* falsely quoted *Chemnitius* did, might be convinced, says *Lubertus p. 165. Peto abs te Hugo ut velis ex scriptura producere unam claram, & perspicuam sententiam qua probas Magistratum habere in Ecclesia absolutum jus eligendi constituendique Pastores Ecclesiæ.* And, *p. 166.* after he had defied him to prove from Scripture the Magistrate to have any other Power in the Election of Ministers, than Approbation of, Consent to, or Confirmation of Elections duly made; he defies him to prove his Point for the first 400 Years after Christ: But, because *Grotius* was a stout Patronage-Man, and of Opinion, that the Right of calling Ministers did belong *ad Regalia Magistratus*, and  
 with

with our *Reconsiderer*, that the Power of the Magistrate and the Patron were the same in the present Debate: *Sibrandus* adds to what the *Reconsiderer* quotes of him from *Voet*, *Commode enim fieri potest, ut Ecclesia eligat Ministrum, & Patronus vel alius quisquam ad quem hoc jus pertinet ad electionem ab Ecclesia factam consensum adjungat.* So that *Voet* understands *Sibrandus* as speaking of these Patrons who had magistratical Power; and he neither will allow the Patron to present, as a Preamble of the Call, or as an Elector, but as joining his Consent to the Election made: And *Voet* says, This is only accepted, as least inconvenient. But, because *Lubertus* observed *Grotius*, in his *Pietas ordinum Hollandiæ*, vehemently to urge the Right of Patronage, see in the 166 and 167 p. of his Answer, what he says, " That Patronages have no Foundation in the Word of God, and " that in latter Times they were introduced for Support " of the Papal Power; and quotes *Panormitan*, ingenuously owning Patronages to be a Servitude upon the " Church. And, p. 168. says, *Ex his videre potes electionem Prælati etiam jure Papali non pertinere ad Patronum. Vides etiam in Conventuali Ecclesia, nihil aliud postulari a Patrono quam consensum, & Patronum non habere potestatem eligendi, neque administrandi bona Ecclesiæ: sed tantum habere potestatem presentandi. Atque hoc ipsum grave visum ordinibus Hollandiæ. Hoc enim jus Patronatus ita limitarunt ut Ministris Ecclesiæ esset, unde viverent, & nemo teneretur assensum a Patrono postulare.* So that these judged it not necessary, either for giving or securing a Minister's legal Title to a Stipend, that a Presentation should be given or accepted. From the same *Sibrandus*, p. 169, 170. we have a Copy of a very early Decree of the States of *Holland*, in which we have these remarkable Words, after they have reserved to themselves these Patronages that have not a Cure of Souls, *Excipiunt omnes Patronos & beneficia quibus annexa est cura animarum*; and to the Decree, p. 170. he adds these Words, *Hoc Decretum docet ordines Hollandiæ, qui primi libertatis vindices fuerunt nervos incidisse huic jure Patronatus; ademerunt enim Patrono jus presentandi pastorem Ecclesiæ.* But when the Dutch Church

Church was corrupted with *Arminianism*, that the Remonstrants might gain and secure the Civil Magistrate to their Side, they gave the Magistrate in the Calling of Ministers a greater Power than at all could be warranted by the Word of God; and Patronages being a great Support of that exorbitant Power, such wholesome Decrees came to be forgotten, and it was not easy to get the Matter reformed, or the Corruption of Patronages laid aside. This will be confirmed, that the *Arminians* were the Encouragers of Parrons, if we read *Brandt*, Vol. 3. p. 34. *Anno 1614*. When the Remonstrant Party was strong, the States of *Holland* declared *Sibrandus's* Answer to *Grotius* an infamous Libel; but when Matters took a Turn, and the Remonstrants are discountenanced, *Anno 1619*. that Declaration is revoked. From what hath been offered, I think it will be obvious to any unbiassed Reader, that the *Reconsiderer* had as well let *Sibrandus Lubertus* alone, whom I hope he will allow to have been a Writer of Credit.

Page 27. and 28. *ad finem*. The *Reconsiderer* proceeds to the Vindication and Support of the fourth Argument of the *Case*, taken from the Practice of the reformed Churches, and says, *That the bad Ethicks of the Case are owing to the Considerer's bad Logicks*. From the *Case* he says, *The reformed Churches have not declared Patronages so unlawful as to be intolerable; therefore the Considerer infers, that the Case admits of an active Countenance to what is in some Degree unlawful*. This needs not Refutation.

*Answ.* If he had fairly stated the *Considerer's* Words, he would not have found them so bad Logicks as he imagines; but an Alledgance of this Kind was convenient to cover his bad Ethicks. The *Considerer*, p. 36. of the *Right*, said, *That the Case-Writer, in his Arguments and Corollaries, drives at something more than a passive Toleration, yea an active Toleration, which he had before proven from the Case-Writer's Doctrine of the Lawfulness of accepting Presentations: And from this of his active Countenance to Presentations, or conforming to them in ipso facto, the Considerer asked the Question, If it be good Ethicks, actively to countenance what is in some Degree sinful,*

ful, or any Way unlawful? If the *Reconsiderer* had purged himself from active Countenance to what is in any Degree sinful, he had made a better Account of his Ethicks, and had discovered the Goodness of the *Considerer's* Logicks.

Page 28. " The *Reconsiderer* judges my Quotation from *Voet*, concerning the Synod of *Dort* their tolerating of Patronages, a Confirmation of the Doctrine of the *Case*; and that modern Disputants, or new-fashioned Presbyterians, plead not a more active Countenance than that of the Synod of *Dort*: If it be considered what is observed above from the learned *Voet* concerning the Use of what is sinful, he will stand guilty of worse Ethicks than the *Case*, which has never determined them to be sinful, as limited by Laws and Practice now in Force."

*Ans.* 1. The *Reconsiderer* must drop fundry of his Principles before the Quotation from *Voet* can be on his Side. *Voet* says, " That Patronages are in themselves unjust, unlawful, and hurtful to the Church; The *Reconsiderer* will not say that they are evil in themselves. *Voet* says, " That they cannot be so transformed by the Help of any Distinctions or Limitations, that a Patron can with a good Conscience use that *Right*; and the *Reconsiderer* will not allow limited Patronages to be in a lesser or in some Degree sinful." So that, 2. As I observed before (admitting the Synod of *Dort* to be of the same Opinion with *Voet* on the Head of Patronages) then *Voet* and they must differ as far from the *Reconsiderer*, in the respect in which Patronages are to be tolerated, as they are distant from each other in their Notion of their Lawfulness and Unlawfulness, whether limited or not limited. 3. If the *Reconsiderer* will allow *Voet* to speak the Mind of the Synod of *Dort*, whatever was in their Toleration of Patronages, I shall show that they admitted of no Conformity in the Fact; they were not for the Doctrine of the *Case-Writer* in the Point of Acceptances, or that such Acceptances were indifferent, whether before or after the founding of the Inclinations of the People.

See *Voet's Polit. Part. 2. Lib. 3. Tract. 2. Cap. 7.* in Answer to a Question, What shall Candidates for the Ministry



Ministry do in the Case of Presentations? He doth not say, Let them accept, providing they caution and limit their Acceptance; no such Thing; but, *Aquo animo a Domino vocationem expectabunt, & in Domino sequentur Synedria & Ecclesiae inspectores; si quid acceptandum, recusandum, cedendum, tolerandum non vero presentationibus ac ambitiosa ataxia & πολυπραγμοσυν, praevertent ipsorum concilia iudicia, actiones: ab illis enim tanquam ὑπερευνοῖς non a candidatis (qui sunt ἐπεμνοῖ, & imprimis in hoc negotio passive se habent) ordinario inchoandae deliberationes, iudicia, & agenda Ecclesiastica circa potestatem ius & Ecclesiasticum.* Now, allowing Voet to speak the Mind of the Synod of Dort, he is very express on it, That Candidates for the Ministry be passive, and is against their doing any Thing previous to the Deliberation and Council of the Church: But the *Case-writer*, in his second Colorary, is for accepting of a Presentation, upon Supposition the Parish may be for the Candidate, and before the Judicatories of the Church have any Thing to determine upon, or advise him in. It is needless for the *Reconsiderer* to say, That he only accepts upon Condition of being duly called: He knows well enough, that the Acceptance gives the Presentation its legal Force, and the Patron is thereby enabled to embarrass a free Election, or to abstract the Benefice from the duly Elected; whereas, if there were no Acceptance, the Presentation would be of no Force, and so the Freedom of Election would be preserved. 4. I should be glad the *Reconsiderer* were for no more active Toleration of Patronages than Voet or the Synod of Dort, but I have shown his Doctrine and theirs to be vastly different; and Voet's Doctrine, concerning the Use of what is sinful, will help the *Reconsiderer* nothing, if what Voet says be fully and fairly quoted. As for that learned Man's Ethicks, they need not my Defence; nor are they in any Hazard of the *Case-writer's* Reconsiderations, unless it be that the *Reconsiderer* has imposed on his Readers by lame, partial, and transposed Quotations. 5. It was Confidence to a Pitch, to say, "That the *Case* has never determined Patronages sinful, as limited by Laws and Practice now in

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Force; and then to alledge that *Voet* was of the same Mind in tolerating them, who yet says, *That, with all their Limitations and Distinctions, they are an unjust Right, evil and hurtful to the Church.* 6. Mr. *Reconsiderer*, if they be not sinful, then they are lawful, and so are to be otherwise treated as by a mere Toleration. Perhaps you will say, That they are indifferent, but I reckon you will find it convenient to cross the River *Tweed* before you vent such Doctrine.

Page 28 at the Close, the *Considerer* is quoted, how fairly I shall not say, but partial Quotations are sometimes the *Reconsiderer's* great Strength; therefore I shall give the Words fully, as they are in the *Right considered*, p. 37. The Church their proposing, and fondly accepting of Limitations, when the usurped Right cannot be got removed, is no Allowance of that Right, or of its Exercise, with all its Limitations, as was illustrated by a Similitude in the *State of the Question*. Now, if the *Reconsiderer* think this bad Ethics or Politicks, he should have showed us wherein; for his Reasonings are not so pungent, nor his Quotations so fair, or his Assertion so just, as to oblige me to take Things upon his Word. The *Reconsiderer* did right not to catch the Highwayman, as he tells us, p. 29. lest he had catch'd a *Tartar*. The Similitude is shortly this, as is to be seen in the *State of the Question* in the *Right considered*, p. 12. State 6. The Question is not, If the Church may propose, and be fond to have the Patronage-Right limited, when they cannot get quite rid of that Right. This they may do: But the Question is, Whether the proposing, and fondly accepting of such Limitations, when the usurped Right cannot be got removed, be any Allowance of, or Acquiescence in, the Patronage-Right, or of its Exercise, with such Limitations? This is refused. A Person may indeed propose to a Highwayman to save his Life, tho' he take his Purse, when yet he is well satisfied in his Mind, that the Robber had no Right to his Purse, but, in taking it away, had done a very unjust and unlawful Thing. And, may I add, that I reckon, tho' the *Reconsiderer* had bargain'd with the Highwayman about his Life, yet would he think it no Crime to recover his Purse

Purse from him who had no Right to take it away : So no more was it any Crime in the *Dutch Church*, notwithstanding of all the Limitations of Patronages proposed at the Synod of *Dort*, yet to do all they could to oppose this usurped Title, if possibly they could get it removed ; which, notwithstanding of the *Dort* Limitations, they really did in another Fashion, than plain passive Resistance by Non-obedience, a Phrase the *Considerer* is not ashamed of, if the *Reconsiderer* be so just as to put it in its due Place. As to the Truth of this, let him consult *Brandt's Ecclesiastick History, Vol. 3. p. 432.* and there he will find, that the Synod of *Leyden*, which met in *July* after the Synod of *Dort* was up, agreed, “ That, since the Right of Patronage had no Foundation “ in the Word of God, or in sound Reason, and was “ Part of the Leaven of the Church of *Rome*, and was “ prejudicial to the Call of Ministers, from whence much “ Trouble daily arose, and from whence Inconveniencies “ to the Commonwealth were to be apprehended, a Remonstrance should be drawn up in the Name of the “ Synod, requesting the States not to burden the Churches “ with the Right of Patronage. And, *p. 458,* We find “ this was done, and the entire Abolition and Extinction “ of Patronages craved.”

The *Considerer* is so far from straining the Patron's Power, or acting in common with *Erasians*, as the *Reconsiderer* alledges, that he assures his Opponent, that he would not only restrain Patronages, but, if it were in his Power, he would be content to outdo the Council of *Trent*, in entirely abolishing, let be reducing, their usurped Right : And must yet tell the *Reconsiderer*, that Patrons are not under Church-Limitations, nor under suitable civil Restrictions that can relieve the Church of the Force of such a Grievance, unless it be the Act of Parliament 1719, which is not duly improven. The *Reconsiderer* asks, *What is that to Patrons ?* I answer, It is very much, because, by accepting Presentations, Patrons have the Satisfaction of seeing their Power supported by Ministers and Probationers, which, without such Acceptances, would be void and null in Law : And, that Patrons now so universally use their Right, is the Fault

Fault of a corrupt Church, that seems not disposed to be reformed or healed : And however an unskilful Physician the *Considerer* may prove, he wants not Cause to fear, that the *Reconsiderer's* quiet Submission to Patronages, and the Exercise of them by particular Patrons, may make him forgetful of his pressing Instances against them.

Page 29. The *Reconsiderer* quarrels with the *Considerer*, because he had said, That the *Case-writer* was mistaken in alledging that our Patrons are more limited as the *Belgick* Patrons : But, for the *Considerer's* Vindication, let us take a View of some of the Limitations of *Dort*, as they are recorded in *Brandt's History*, Vol. 3. p. 314, and 315.

The *Considerer* took Notice of the fourth Limitation, viz. *That Patrons should present at farthest within two or three Months after the Vacancy. Upon this, says the Reconsiderer, First, Majus & minus non variant speciem. 2. That he hath known Judicatories have it in their Power by the Patron's Concurrence, to call within four Months, and yet thought it not worth accepting.*

Answer 1. If a Person were reduced to a six Years Slavery, he would think it a very considerable Favour to have the Years of his Bondage reduced a Half or Two Thirds ; so, where the Patron's Title cannot be got abolished, it is very material, that a Servitude on the Church be reduced a Half or Two Thirds. 2. Presbyteries have attempted to settle Churches within the Months of the Patron's Usurpation, upon Credit given that the Patron would not by a Presentation embarrass a free Election ; but the Patron breaking his Promise, no Wonder he afterwards lost Credit. 3. If Patrons would not at all exercise their Right, but allow Church-Judicatories to proceed according to the Word of God, and yet these Judicatories will not, as timeously as may be, proceed in a Gospel-way, to plant a vacant Church ; let the *Reconsiderer* blame these Judicatories, for my Part I shall not vindicate them : But, not having produced one Instance of a Patron's not using his Right, and a Judicatory's not laying Hold on a seasonable and suitable Opportunity of planting a vacant Church, he hath said nothing to the Purpose.



Upon the 6th *Dort* Limitation, viz. " That the Church preserve a Right of rejecting the Person presented, in Case his Qualifications should not be agreeable to the Members of it, so as no Minister be imposed upon them against their Wills." The *Reconsiderer*, p. 30, says, " That this respects the Gifts and Qualifications of the Presentee, which must be subject to the Trial and Judgment of the Church ; or, if it were to be understood of a Power in the People to reject a qualified Man, *Voet*, who reckons up these Limitations, must have been very unjust to say, That our *Belgick* Patrons are worse than the *English* or *Papist* Patrons ; for the Bishops had Power to reject the Presentee, which we have not ; and *Voet* comes not handsomely off at the *Considerer's* Hands, in the Passage quoted from the *Case*, viz. Our modern Patrons exclude the Presbytery from all Election, and impose the Man they elect to be examined and confirmed : So that *Voet* did not understand these Limitations so well as the *Considerer*, or else they were not so strict as what we, by Constitution and Custom, do enjoy."

*Ans. 1.* The *Reconsiderer* is yet in a considerable Mistake, when he says, That the 6th *Dort* Limitation only respects the Trial of the Gifts and Qualifications of the Presentee ; for, if he had been pleased to take Notice of the 7th Limitation, as quoted by the *Considerer*, p. 38 of the *Right*, ( which he found convenient to pass over ) he would have found that 7th Article respecting the Examination and Trial of the Presentee, the Words of which are, " That the Person presented being received by the Church, as soon as the *Classis* had due Cognizance thereof, should be examined by the *Classis*, &c." So that the 6th Article must respect the Members of the Church to whom the Minister is presented, and not the *Classis*, to whom, according to the 7th Article, it belongs to examine and admit. For, 2. It is not to be supposed, that the Synod of *Dort*, in proposing Articles of Limitation, would propose one upon the Back of another, of the same Import and Meaning. So that the 6th Article undeniably respects the Deed of the

the Congregation, and the 7th the Deed of the *Classis* or Presbytery : And if the *Reconsiderer* had not passed over the 7th Limitation, he had been reduced to this Acknowledgment ; but, that he might impose on his Readers concerning the Meaning of the 6th Article, he passes over the 7th, as he doth a great many other Things that pinch him. 3. It would have been a very great Reflection on the Divines at *Dort*, that in proposing Limitations of Patronages, when they could not get itself abolished, never to have proposed one, saving the Congregation's Right to elect their Pastors. 4. It will be found, that I have not at all mistaken these Limitations of Patronage, considering what we have from *Brandt*, Vol. 3. p. 316, 317. in the 161 Session, a Form of calling Ministers, drawn up by the President *Bogerman*, after some Alterations, was approved after the following Manner. " The lawful Call of these who have never been admitted into Holy Orders, both in Town and Country, consists, 1. In their Election, which is to be made by the Consistory and Ministers, after a previous Fast and Prayer, and not without a good Understanding of the Civil Magistrate of the respective Places, and likewise the Advice and Knowledge of the *Classis*. 2. In the Examination into the Lives and Doctrines of the Candidates, which shall be made by the *Classis*. 3. In the Approbation and Consent of the Government. 4. In the publick Confirmation of him before the People. As to Persons already in the Ministry, the same Method to be followed, *mutatis mutandis*." But seeing they could not get rid of Patronages, the States Commissioners obliged them to add the Clause, " Without Prejudice to any Man's Right of Presentation, or to any other Right." But with this express Provision, " So far as the same may be practised with Edification, and without Injury to the Church of God, and good Discipline, which the Temporal Powers, as likewise the Synods, will be pleased to take Care of, and to make the necessary Orders accordingly." Yet notwithstanding of this Salvo, which they were in a Manner forced to add, they strenuously maintained the

Church's Right of Election, See *Brandt. Vol. 3. p. 491; 492.* at the Request of the States of *Utrecht*, the Deputies of the National Synod, explaining some Articles of the Ecclesiastical Constitution, in Answer to a Question on the 5th Article, "What is meant by these Words, So far as the same may be done with Edification, and without Prejudice of the Church of God? whether it is thereby to be understood, That the Parrons of Benefices, being of a different Religion from the Reformed Church, ought to lose their Right? Say, It is not the Intention of the National Synod, by these Expressions, to deprive any Man of his Right of Presentation, but that it be used to Edification." Seeing they could not get Patronages abolished, which was earnestly desired by the National, and afterwards by Provincial Synods, they shew what would be the Way of using that Right, for the Safety of the Church; "First, he must be a habile Person presented; of this the *Classis* must judge. 2. The Church should preserve a Right of electing lawfully, and dismissing Persons, &c." Now, the States, having ratified the Ecclesiastick Constitutions, have their Patronages under Civil Restraints; that I defy the *Reconsiderer* or his Confederates, to shew me any such Restriction of our Patrons; so that I have not judged wrong of the Synod of *Dort* their Meaning of the Limitations. But, 5. That the *Reconsiderer* may not think that *Voet* comes unhandsomely off at my Hands, as if he had not understood the Mind of the Synod of *Dort*; This may justly be said, 1. It will be found, in all the Places to which the *Reconsiderer* refers, that *Voet* is only speaking of a *præsumsum jus*, what the Patrons would pretend to, notwithstanding of legal Limitations they might be under, and that they did not, in Practice, keep by their Limitations; which if at any Time they did, they pretended they did it *ex gratia*: *Vide Eccl. Pol. p. 2. Lib. 3. Tract. 2. Cap. 3.* 2. He compares not the *English* and *Belgick* Patrons, as if the *English* had the Freedom of Election, and the *Belgick* wanted it; for we have seen from their Ecclesiastick Constitutions, ratified by the States, that they maintained the Church's Right of Election: So that *Voet's* Difference between the

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*Englifo* and *Belgick* Patrons, behaved to be in something else. 3. Altho' the States Deputies at the Synod of *Dort*, encouraged the limiting of Patronages, when they would not consent to demand its Abolition; yet the States, in the Ratification of the Ecclesiastick Constitutions, reserve an explanatory Power to themselves, of which Patrons took the Advantage, and broke through the Limitations. So that my Friend *Voet* will not be left in the Lurch, or come unhandlomely off at my Hands, unless the *Reconsiderer* can prove, That usurping Patrons never break Terms, which I reckon he will not undertake, nor needs he; for, having once an usurped Title, they are not squimish in doing any Thing that may strengthen and support it.

Page 30. The *Reconsiderer* says, "Why did such a famous Synod submit to such a sinful Clause, *salvo cui-que jure patronatus*; What did they save, a Right that is *funditus* usurped, unlawful and sinful, even after all the Limitations and Clauses clapt upon it? Or, is it more sinful for a young Man duly elected and well-qualified to accept of a Presentation, than to establish Iniquity by a Law?"

*Ans. 1.* I have already shewn from *Voet*, that he esteems Patronages unlawful, unjust, and hurtful to the Church, and that they cannot be so limited, as that the Patron can with a good Conscience use that Right. I have likewise shewn from the Synod of *Leyden*, which met in *July* after the Synod of *Dort* was up, that they esteemed Patronages to have no Foundation in the Word of God, or in sound Reason, which was as strong, as to say with the *Considerer*, that they are *funditus* usurped; and yet the Clause *salvo jure* is added to the Limitations: But this will not say that they established Iniquity by a Law. 2. There is no more in the Affair as this, as if the Synod of *Dort* and Provincial Synods had said, The Church earnestly desires of you, My Lords the States, that Patronages were quite abolished: No, says the States, that may not be, but we will allow you very convenient Limitations: Well, says the Church, seeing better may not be, we propose such and such Limitations, without meddling further with the Right of Patronage; Will it fol-



low from this, that they approved of a limited Patronage, or were of the *Reconsiderer's* Opinion, that a limited Patronage was not in some, or in a lesser Degree, sinful? No, it will not: If this had been their Opinion, why would any of their Provincial Synods, after the Synod of *Dort* was up, and Limitations obtained that we have not the like, have petitioned for the utter Abolition of them, notwithstanding they stood thus limited? 3. There is not the least Hint in all the Decrees of the Synod of *Dort*, of their establishing Patronages by a Law; they were in Use before, and if the States would continue them, what could the Church help it? Were they to refuse convenient Terms, restricting an unlawful Right, when it was not in their Power to get it quite abolished? 4. Seeing they made no Law establishing the Patron's Right, the *Reconsiderer* unjustly infers the Lawfulness of accepting Presentations therefrom; for verily they made no such Law, therefore all he builds upon it must fall to the Ground. 5. Seeing the Synod of *Dort* in all Reason were so fond of limiting, what, will they will they, was not to be got removed; can any imagine that these Reverend Divines, who looked on Patronages as such unlawful Things, would not have improved any Act about Acceptances? If the States had granted such a Limitation, so as to have taken the Force and Sting from Patronages; Is it to be supposed, that they, who, after all the Limitations, so earnestly petitioned for the utter Abolition of Patronages, would not have discharged all Acceptances, if the States had given them such Advantage, as we have by the Act of Parliamant 1719, of which there is no due Use, if, according to the *Reconsiderer*, it be not unlawful to accept of Presentations? 6. The *Dutch Churches* and Divines say, That Patronages, even with all their Limitations, have no Foundation in the Word of God, or in sound Reason: The *Reconsiderer* says, 'That he will not determine a limited Patronage to be in some, or in a lesser Degree, sinful, or that Patronages are unlawful in themselves;' so that, if his Principles were good, he might on these maintain the Lawfulness of accepting Presentations, which the *Dutch Churches* and Divines could not do on their Principles: For he and they must be as opposite in any just

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Consequence drawn from their Principles, as the Principles themselves are opposite to each other, unless his Civilities will not allow these Churches and Divines to be consistent with themselves.

As to what the *Reconsiderer* offers, *p. 31.* it will fix no Inconsistency on the *Considerer* to have said, *p. 22.* of the *Right*, Is not the Church of *Scotland* to depend on the publick Faith pledged for her Security? and yet to say, that the Act *decimo Annæ* repeals the Act 1690, securing that Part of our Constitution which concerns the Election of Ministers. Because, at a Time when Designs run high against Church and State, this Church met with a severe Stroke, and her legal Security was invaded by the Act restoring Patronages, it will not follow, the Times being changed, and the Government more settled from any Fears of *Jacobite* Invasions or Attempts upon the Throne, that the Church is to dread the taking away of her remaining Privileges.

As to what he adds in the same *31 p.* Of a free Election's being established by the Acts of Parliament 1649 and 1690, these will be so far from proving the Standing of any Law securing the Congregation's Right to elect their Pastors, that, considering what followed, *viz.* the Act *decimo Annæ*, the quite contrary comes. The Act of Parliament 1649, abolisheth the Right of Patronages; the Act of *Charles II. Parl. 1.* restores them to their former Powers; the Act of Parliament 1690, repeals the Patron's Right, and establisheth the Congregation's Right to elect their Ministers; the *British* Act *decimo Annæ* restores Patrons, and repeals as expressly as express can be that Part of the Act 1690, ratifying the Congregation's Right to elect their Ministers, because it had occasioned Heats and Divisions, and gives that Power to the Patron; and yet the *Reconsiderer* hath the Confidence to say, "That the Act *decimo Annæ* doth not repeal the Act 1690 any further than restoring Patrons;" and in the same *31 Page*, "That we are not to suppose the Act of Parliament *decimo Annæ* to exclude a free Election." How the *Reconsiderer* fell into this Humour of contradicting and denying that which is plainly and clearly express, cannot so easily be accounted for, unless he think that his

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Veracity and Judgment hath no Business with this Part of his Performance. As to what he says of 1592, I have already shewn, and may yet more fully, 'That Freedom of Elections did then obtain both by Law and Practice :'' As to what he further says, 'That Acts of Parliament do not ordinarily repeal Church-canons ;' the *Reconsiderer* knows that it was not Church-canons, the Author of the *Right* was upon, but the repealing the Act of Parliament 1690, in which is ratified the Congregation's Right to chuse their Ministers. But this Perversion he had Use for to cover the Blush he might be put to in talking so much out of the Way, upon the Act *decimo Anne*.

Whatever the *Reconsiderer* may unjustly alledge, the *Considerer*, who is for annulling the Patron's Title, cannot readily be charged with straining his Power ; and he maintains, that free Elections ought to obtain, tho' in Law and Practice they do not ; and our Church-decisions are now too common in supporting the Patron's Title, when no good Ground can be given why a Presentee should be obtruded on a Congregation, the Expediency of which, the *Reconsiderer* is said to have voted at the Commission in *August* last, in the noted Instance of the *West-kirk*.

I agree with the *Reconsiderer*, 'That these ought to leave a corrupt Church who cannot live within her, but upon sinful Terms ;' but as long as corrupt Decisions and Acts are not imposed upon me, as Conditions of my Ministry, to which I must consent, or against which I may not dissent, I will even continue where I am, however sain the *Reconsiderer* seems to be that I were out of the Church. I shall only add, That, if Terms of Ministerial Communion were at the *Reconsiderer's*, or his Confederates making, they seem disposed to make them very narrow, and so narrow, as they would soon rid a corrupt Church of them, who cannot be silent Spectators of his and his Confederates their corrupt Courses; only he would seem to straiten the Terms on them who cannot call Evil Good, when they who scruple not to do so, are like to have a broader Allowance and larger Terms.

I come now to what, it would seem, the *Reconsiderer* would look upon as his main Strength, viz. *That the Church of Scotland from 1560, to 1592, either saved*

*the Rights of Parsons, or submitted to a more rigorous Exercise of Patronages as now ; and that they complained more of their rigorous Exercise, than of the Thing itself.* These Things he endeavours to prove in a great many of his Pages, from Quotations of Acts, Addresses and Decisions of Assemblies, the most Part of which have been considered by the Author of the *Right*.

There were some Things offered in the *Right of Patronages considered*, that once for all might serve as a sufficient and satisfying Answer to all his Quotations. P. 7. The *Considerer* notices how the Books of Discipline maintain the Freedom of Election, and Patronages are disclaimed and testified against ; so that whatever Corruption might have obtained in the early Age of our Reformation, that was to be imputed to the Iniquity of the Time, in which there were continual Plots for the establishing of Prelacy, and is not to be constructed as any Allowance of the true Sons of the Church of *Scotland*, who laid hold upon every Opportunity of maintaining the Church's Right and Liberty. And, p. 41. and 42. of the *Right*, the *Considerer* said, That to our Books of Discipline we are to appeal, and not to the Decision of this and the other Assembly, which were often more or less pure, as Court Measures did prevail ; and I am afraid, if Posterity were to judge of Things not by our Principles and Standarts, a hundred Years hence, they should hardly be able to think, but that our Assemblies and Commissions at this Time were for Patronages. This, said the *Considerer*, might answer all the *Case-Writer's* Referrals to old Acts, and Decisions of Assemblies : But, that he might not think his Instances unanswerable, the Author of the *Right* hath given them due Consideration : And, that he may not triumph, as if he had advanced more unanswerable Instances, they shall also be noticed, tho' what I have just now advanced might serve as an Answer to all.

I know not for what Purpose the *Reconsiderer* tells us, p. 31. *That there have been such Terms imposed upon Presbyterian Ministers, as have obliged them to quite their publick Ministry ; but Patronages never had this Effect, and that the Church of Scotland never thought fit*



*fit to renounce the Benefit of a publick Establishment, rather than submit to them.*

*Ans. 1.* The *Case-Writer* and *Reconsiderer* is not able to prove, that Patronages, in all the Times referred to, were imposed as Terms of our publick Establishment ; no not in the Year 1592, as the *Considerer*, p. 47. of the *Right*, hath shown. 2. Whenever they were imposed as Terms of enjoying our Ministerial Liberty, the true Sons of this Church quitted with their Liberty rather than to submit to such Terms. The *Reconsiderer* hath forgotten that ever Patronages had this Effect, therefore I will refresh his Memory with the famous Act of the Council at *Glasgow*, Anno 1662, intituled, *Act concerning such Benefices, and Stipends, as have been possessed without Presentation from the lawful Patron*, "That  
 " all Ministers, who have entred upon the Cure of any  
 " Parish, in Burgh or Landward since the Year 1649  
 " (at which Time the Patrons were most injuriously dis-  
 " possessed of their Patronages) have no Right unto, or  
 " shall uplift the Rents of their respective Benefices, mo-  
 " dified Stipends, Manse or Glebe, for this instant Year  
 " 1662, unless they obtain Presentation from the lawful  
 " Patron, &c." This Act turned out near a third Part of the Ministers of this Church. It is true, there were other Conditions, such as receiving Collation from the Bishop ; And the *Reconsiderer* will perhaps say, That this made them refuse the Terms : But I shall oppone to this Exception, the Opinion of the Reverend and Moderate Mr. Robert Douglas, see *Wodrow's Hist.* Vol. 1. p. 127. his Words are, *That the receiving a Presentation and Collation may be accounted a small Matter ; but who considers it well, will find it very weighty. Taking of Presentations condemns the removing of Laick Patrons, and which is more, condemns the Call from the People ; and Presentations directed to the Bishops, condemn the Call from the Presbytery, and it vacates the Right to the Benefice, and says, they had no Right to it, and yet in Law beneficium sequitur officium.* Now, Mr. *Reconsiderer*, what would the very Moderate Mr. Robert Douglas have said to your Doctrine of Acceptances ; and, *That Patronages are an instituted Right, very conveni-*  
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ent to be superadded to a Minister's other Title, and that the Law may impose this as a Condition of a Minister's enjoying or recovering his Benefice, that he accept of a Presentation? Would not that great Man have said over again, That the Accepting of Presentations, as now in Force by the Act 10mo Anne, condemns the removing of Patronages by the Act 1690? and, which is more, condemns the Call from the People, whose Right, as secured by the Act 1690, is invaded by the Repeal of that Act, by the Act 10mo Anne.

Page 32. The Reconsiderer denies the Case-writer to have said, *That the Church of Scotland in former Times gave as active Countenance to Presentations as now; Tho' I have made it appear from his Doctrine of Acceptances, by which Presentations have their legal Force.* But now, he will speak it out, saying, *That the Church of Scotland gave as active Countenance to Patrons 150 Years ago, as within these three or four Years.* From this it may appear, that the Considerer hath not mistaken the Meaning of the Case. But, to what he now asserts, the Reconsiderer will remember, that at present, if no Acceptances were given, Presentations would be void and null in Law. So that, unless he prove that the Church of Scotland 150 Years ago did what might give Presentations their legal Force, when it was in the Power of their Hand to render them void and null in Law, as it is now in our Power, he proves nothing; and without this, all he talks of the active Countenance given to Presentations by this Church 150 Years ago, is nothing but strong asserting.

There is one Thing the Reconsiderer cannot refuse, That our ancient Assemblies remonstrated against Patronages, at least against the Abuse of them; and I hope he will not refuse, that the Affair of Patronages, is one of these Things condemned in the second Book of Policy. But, pray, Good Sir, What is the Church of Scotland doing now, when Patrons are, by their Presentations, disturbing the Quiet of the Church? Would it be any Dishonour to us, or disregard to his Majesty's Government, to plead, that the Patronage-act might be repealed? And then, if we should get for Answer, Gentlemen, that may

may not be so easily done, but the Shaft and the Blade is in your own Hand by the Act 1719, you may render Patronages a Nullity, if you accept not of Presentations. Now, suppose the Church making pressing Instances, and receiving such an Answer, what should be thought of them who would accept, and who would maintain, that it is neither sinful, scandalous nor unlawful to accept of Presentations? I wish the *Reconsiderer* had taken Notice of this, and had not slubbered over the Act 1719, as he hath done.

Page 32. The *Reconsiderer* lays down three Particulars, which he undertakes to prove so near a Kin to one another, that he needed not have divided them; but, seeing he hath distinguished them, I shall follow his Distinction in my Answer.

*First*, He undertakes to prove, *That our ancient Assemblies have saved the Rights of Patrons, as expressly, if not more, as any Assembly since their being restored.*

Before I take Notice of his Proof of this Assertion, I may observe, that he hath dropp'd his Doctrine of tolerating Patronages, and now proceeds to prove, that this Church salv'd their Right; something more as a Toleration.

The *Reconsiderer* refers to three General Assemblies for the Proof of his Assertion, but I am apprehensive his Proofs will not be found *ad idem*.

" His first Proof is from the Assembly met at *Edinburgh*,  
 " *December 25. 1565*, in Consequence of the Queen's  
 " Answer to one of their Articles, they declare, *Our*  
 " *Mind is not that her Majesty, or any other Patron of*  
 " *the Realm should be defrauded of their just Parronage;*  
 " *but we mean, wheresoever her Majesty, or any other*  
 " *Patron, do present any Person to a Benefice, that the*  
 " *Person presented should be tried and examined by the*  
 " *Judgment of learned Men of the Kirk, likeas pre-*  
 " *sently are the Superintendents instituted thereunto.*  
 " *And, as the Presentation of Benefices pertains to the*  
 " *Patrons, so ought the Collation thereof be Law and*  
 " *Reason appertain to the Kirk, of which Collation the*

" *Kirk.*

*Kirk suld not be defraudit, more than the Patrons of the Presentation, &c.*

*Ans. 1.* Altho' this should be an Instance proving all that the *Reconsiderer* designs it should prove, yet it is but one Instance, and one Swallow makes not Spring.

2. If this Instance be taken as salving the Rights of Patrons, it proves too much, namely, That the Assembly 1565 acknowledged to Patrons a lawful Right and Title.

3. It would say, that this Church in that Year claimed no more but the Examination and Admission of the Candidate, there being not one Syllable of a due Election, which always was claimed and maintained by this Church in their Decisions and Books of Discipline, which I need not here repeat: A noted Instance of this Church's Concern that Way we have, The Assembly met at *Edinburgh, December 25, 1562, inhibite all serving in the Ministry, who have not been presented by the People unto the Superintendent, &c.* So that,

4. If no more as Examination and Admission were claimed by the Assembly 1565, they erred in that, as well as in their salving the Rights of Patrons: We are not to pretend that Assemblies are infallible; and, as one Instance will not weaken my Assertion in Favours of this Church, their not salving the Rights of Patrons; so neither will one Instance prove the *Reconsiderer's* Assertion: And, as I said before, it is to our Standards and Books of Discipline we are to go, and not to the Decisions of this or that Assembly. But,

5. A short View of the History of that Time will set the Matter in another Light. The Assembly convened *June 1565*, supplicate the Queen and complain, "That various Benefices have lately been bestowed by her Majesty on Noblemen and Barons, as a Benefice in *Carrick* was given to the Laird of *Skeldrom*, and that beneficed Men in Time of Papistry were permitted to keep their Benefice, and now, being converted, take upon them the Ministry in another Congregation." It is for once clear from this, that the Thing which that Assembly wanted, was, that none should have the Benefice of a Church, but they who serve at that Church; and that, if Patrons will maintain their Right according to Law, they shall then be bound to observe the Laws, That they present none to

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Benefices, but such as shall serve the Cure; this is no salving of the Patron's Right; but seeing at that Time better could not be, they take Care that worse may not be. And it is likewise plain from the Queen's Answer, that the Assembly complained of Patrons their retaining Benefices in Whole or in Part to themselves, by which the Church was defrauded of her Patrimony: For, says the Queen, "It is not reasonable that she should defraud herself of so great a Part of the Patrimony of the Crown, as to put the Patronages of Benefices out of her Hands, for her Necessity in bearing Port, and common Charge will require the Retention of a good Part thereof in her own Hands. Nevertheless she would take Care of the Sustainment of the Ministry." So that when the Assembly say, That they are not for defrauding her Majesty, or other Patrons of their Patronages, their Meaning was, whatever may be the Church's Claim, considering the present Necessity, let Ministers be provided with Livings, tho' Patrons should retain what remains of Tithes in their own Hand. And that Assembly in a Consistency with their Principles, could mean no more than this, As Patrons maintain their Right by the Law to present, so let them not break the Law in presenting without Regard to the Church's Examination and Admission. They speak of what the Patron claimed by the Law then in Being, and not of what should be allowed him by the Principles of this Church.

The second Instance by which the *Reconsiderer* would prove how much our ancient Assemblies saved the Rights of Patrons, is of an Assembly 1582, who, says he, *Making some Regulations against pleno jure Collations*, add this Clause, *And the Acts noway to be prejudicial to the Laick Patrons and their Presentations.*

*Ans. 1.* It will never from this follow, that the Assembly 1582, did at all save the Patron's Right of presenting to Churches. The Church by many former Declarations claimed the Tithes as their Patrimony, witness Assemblies 1566 and 1576; and a Decree of our *Scots* Parliament 1567, declareth Tithes to be the Patrimony of the Church. Now, all that is in the foresaid Proviso, is, That tho' Patrons at present, as Titulars of Tithes, make Ad-

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vantage of their Patronages, the Liberty presently craved is not prejudicial thereto. But, 2. There is an Addition which the *Reconsiderer* hath passed over, viz. *till the Laws be reformed*; so it was more than *pleno jure* Collations by Patrons which they wanted to have reformed, it was these very Laws regulating Patronages they wanted to have reformed. 3. There is something in the Declaration of that Assembly, which knocks Patronages and Presentations on the Head, and doth shew, that they only meant to groan under what they could not help, till the Laws be reformed. The Words of the Act are, *The whole Assembly hath voted and concluded, conform to the Word of God, and most godly Acts of ancient Councils, that no Man pretend to Ecclesiastical Function, Office or Benefice by absolute Gift, Collation, or Admission of the Civil Magistrate or Patron. Oh! but says the Reconsiderer, what is this but a Regulation of what I called pleno jure Collations?* Answ. Then, Sir, according to you, if they were seeking no more but Examination and Admission, you bring them in giving up with the Word of God, and Acts of Assembly as the Rule, by both which Freedom of Election is authorized and maintained, and Patronages and Presentations have no Warrant: For, say they, *No Man is to pretend to Ecclesiastical Function, Office, or Benefice by absolute Gift, &c. or whatsoever other Means than are established by the Word of God, and Acts of the General Assembly, &c.* Now, I hope, Presentations by Patrons to Ecclesiastick Function, Office, or Benefice, are not warranted by the Word of God, and Acts of General Assemblies; so that I think the Assembly 1582 hath given Patronages but a poor *Salvo*. 4. Altho' at that Time there was no such Thing as accepting of Presentations, before they could be valid in Law, yet are they by the Words of this Act materially discharged, and, I might say, formally, if such an Act had then been; for, say they, *No Man is to pretend to Ecclesiastick Function, Office, or Benefice, by other Means than are established in the Word of God, and Acts of the Church.* Now, neither of these warrant our accepting of Office or Benefice from the Patron; and yet our most limited Presentations are accepted as giving a Right to the Benefice. It is difficult

cult for the *Reconsiderer* or me to explain every Thing we find in our old Acts of Assemblies, considering the Distance of Time, how briefly these Acts were written, the Infant-State of the Reformation-Work, and the Hardships they then laboured under : But, if none was to pretend a Right to Office, or Benefice, but according to the Word of God, and Acts of the Church, this Assembly 1582 is altogether on my Side, unless the *Reconsiderer* will say, that a Minister's holding an Ecclesiastical Benefice by Presentation from a Patron, be according to the Word of God, and Acts of our General Assemblies.

His third Proof of our ancient Assemblies, their saving the Right of Patrons, is taken from a Conclusion of the Assembly 1586, *That it is lawful to the General Assembly to admit a Pastor, Bishop or Minister, having a Benefice presented by the King's Majesty to the same.*

For Answer, I shall transcribe a Part of what you find in the *Right considered*, Pages 44, 45. . If the Conclusion had been, that it was lawful to admit a Pastor only presented, and not elected, he had said much as to this one Instance : For, if Patrons will present, it will not follow that Judicatories are not to admit Persons duly elected ; and Church-Judicatories should not give such Countenance to Presentations, as to settle the Presentee contrary to the Inclination of a Parish ; nor should Patrons be so supported, as to let the Accepters of Presentations escape Censure. What further is said on this, I refer to the forementioned Pages of the *Right considered*.

But, says the *Reconsiderer*, Pages 33, 34. “ The *Considerer* hath picked a Quarrel with this Assembly, “ whereof Mr. *Andrew Melvil* was a Member, and dissented not from any Thing, but the Absoluture of Mr. *Patrick Adamson*; and therefore I must stay to do them Justice in their Absence, and refer to it afterwards. “ It may well be allowed there was a Plot of *Prelacy* on Foot by King *James*, but that Assembly marred the Plot, and reduced the Bishop to the Figure of a Presbyterian Minister ; and the King, convinced of the defeating his Design, his Commissioners protested, in respect the Assembly had thrown down what was agreed on in the Conference at *Holyroodhouse*, That no “ thing

“ thing in the said Conference, or in this Assembly, have  
 “ any Force or Effect, and chiefly in respect of their sub-  
 “ jecting Bishops to the Censure and Trial of Presbyterie-  
 “ ries, to which Presbyteries by this Assembly were re-  
 “ stored after the Interruption in 1584.”

*Ans. 1.* The Words the *Considerer* used in quarrel-  
 ling with this Assembly, are precisely these, *I could have*  
*wished he had not argued from that of the Assembly*  
*1586, tho' really there be nothing in his Quotation. It*  
*is no Secret, that, tho' that Assembly went not all the*  
*King and Court their proposed Lengths, yet they went*  
*greater Lengths than became a true Presbyterian Assem-*  
*bly.* 2. If the *Reconsiderer* had read his Histories and  
 manuscript Copies of old Acts of Assemblies, more exa-  
 ctly he would have found, that, tho' at first that Assem-  
 bly bogged at the King's Terms, and were for subjecting  
 the *Reconsiderer's* figurative Bishop to Presbyteries and  
 Synodal Assemblies; yet when this would not please the  
 King, says *Calderwood*, p. 208. *In respect of the Time, the*  
*Assembly thought it expedient (altho' it was reasonable*  
*that the Trial and Censure of Pastors be in the Power*  
*of Presbyteries) nevertheless that the Trial of such shall*  
*be in the Power of the General Assembly:* And says *Pe-*  
*trie*, Part 3. p. 450. *Unto this Ordinance the King's*  
*Commissioners do consent, and so pass from their former*  
*Protestation.* Who so compares the Compliances of this  
 Assembly with the King's Articles, will find, that the Mat-  
 ter of the Bishop's Subjection was the sticking Point, that  
 they conformed to all except that, and to that at last; so  
 that the Commissioners from the King retired their Protes-  
 tation. Upon all which the *Considerer* is not much to  
 blame in not being much determined by the Sentence of  
 that complaisant Assembly in this Matter, they having  
 come up to one main Thing enacted in Favours of the  
 Bishops, in the Parliament 1584, which was to relieve  
 Bishops from the Censure of any other Judicatory as a  
 General Assembly. I think it will by this Time appear,  
 that the *Reconsiderer* hath given a mistaken Account of  
 the Affair. 3. As to Mr. *Andrew Melvil's* being in that  
 Assembly, so have worthy Ministers been where Things



have been done not so warrantable, and, tho' Protestors, their Protestation hath been buried in Oblivion. *Calderwood*, p. 459. mentions a Protestation of Mr. *James Melvil's* at an Assembly, yet is it not extant in the Records. 4. But, admitting the *Reconsiderer's* Quotation from 1586 to have been designed for the same End for which he mentions it, if that Assembly sustains a Presentation from the Laick Patron instead of Election, therein they acted inconsistent with both Books of Discipline, and the Act of Assembly 1562, *Inhibiting all serving in the Ministry who have not been presented by the People*; and so there is the greater Cause of quarrelling with the Conduct of that Assembly.

Page 34. The *Reconsiderer* proceeds to his second Point, viz. *That our old Presbyterians gave as active Countenance to Presentees, as what those of the new Cut have done within these three or four Years.* This he endeavours to prove, 1. from this Consideration, *That we don't find any deposed or censured for accepting.* 2. *That the Assembly 1576 appoints, upon Presentations of Patrons to their Visitors, he, with Consent of the Synodal Assembly, shall give Letters Testimonials to him that is presented.* 3. *The Assembly met at Edinburgh in October 1582. in the Articles presented to the King, crave, That no blank Presentations be given, and that such be chiefly regarded, who, by Presbyteries and Universities, shall be recommended to the King and other Laick Patrons.*

*Ans. At the Times to which the Reconsiderer refers, there was no such Act requiring a formal Acceptance before the Presentation should have Force in Law: If this had been, the Church, who at that Time made such pressing Instances against Presentations, whether pleno jure or otherwise, could soon have relieved themselves of that Burden. And it is presumable, that, had they enjoyed the Advantage of any Act, like the British Act 1719, empowering them to make Presentations a Nullity, they they would have improven it to better Purpose as is done now. 2. Not disputing the Reconsiderer's Respects to the worthy Members of the Assembly 1576, who were not the less considerable that Mr. Andrew Melvil was among*

among them, tho' the *Reconsiderer* seems to jest with the Name and Remembrance of him who was so great an Ornament to this Church and Country ; His Quotation from them will not infer, according to the *Considerer's* Principles, that they should be esteemed *Prelatical Erastians*. That Presentations at that Time did obtain, who denies it ? That they were esteemed a Grievance in other Respects, than according to the *Reconsiderer's* Notion of *pleno jure*, none but he, or his Confederates, will refuse it ; they were a Yoke wreathed about the Neck of this Church, will they will they. And, if the Superintendent's Testimonials to the Presentee, had been only upon his being presented, the *Reconsiderer* had gained his Point in this Instance. But the Visiter is restricted that he give not these Testimonials, but always providing that the Consent of the Flock be had. How will this prove, that our old Presbyterians gave as active, yea, more active Countenance to Presentees, than these of the new Cut have done, within these few Years ; when, instead of making the Consent of the Flock and Concurrence of the Church needful, Presentees are obtruded on Congregations against their Will ? 3. I shall, from *Calderwood*, p. 135. more fully transcribe his Instance of the Assembly October 9. 1582. than he hath thought fit to do ; *That no Presentations be given to any Man, with a Blank therewith, for their filthy Avarice, to go through the Country and make shameful Merchandice, and search who will offer most, or receive least ; that such be chiefly regarded as, by Presbyteries or Universities, shall be recommended to the King's Majesty, or other Laick Patrons.* To this Instance I say, That, upon my Answer to the Instance of 1565, I have made it appear, that in that confused Time, vacant Benefices had been bestowed on Noblemen and Barons ; and the present Instance is an Explication how they had been bestowed sometimes, viz. by putting into their Hands blank Presentations, which they might fill up as they made a lucrative Bargain : For it is plain, these Presentations are given to Persons who themselves were not to officiate, but that they might make Gain, by filling up the Blank with another. Now, seeing the Court was resolved, that this

Grievance of Patronage should continue, whether the Church would or not, it was not a salving the Patron's Right, nor any Countenance thereto, in order to prevent such a complained-of Abuse, to plead, That the Patrons should be astricted unto Persons attested by the Church, of whom, tho' some should be presented, yet they were not to be settled but with the Consent of the vacant Parish, the contrary of which doth now obtain; and therefore, the Proof of the *Reconsiderer's* Assertion is null. And, as I have frequently observed, If these Assemblies, who were so assiduous in their Complaints against Patronages, had had it in their Power of defeating their Design, we may easily guess what would have been their Conduct, whether it had been Deposition, or any other Censure, upon them who, by Acceptances, had given that Servitude of Patronages its legal Force:

Page 35. The *Reconsiderer* proceeds to the Proof of his third Point, viz. *That our ancient Assemblies as actively countenanced Patrons and Presentees as now, in directing the Way of Presenting.* This he thinks to make out from a great many Instances, viz. *The Assembly 1576 appoint Presentations to be directed to the Visitors and Synod. The Assembly 1578 appoint them to be directed to the Commissioners of the Kirk. The Assembly 1581 advise King James to direct them to Presbyteries. The Assembly 1582 crave they may be directed to Presbyteries. The Assembly 1590 take this Business out of the Hands of Commissioners, into which it had dropped, and restore it to Presbyteries. The Assembly 1593 accepted the Act of Ratification, with a Clause in the Bosom of it, which the Author reckons sinful. The Assembly 1596 appoint effectual Dealing with Ministers to accept.*

Here is a large Muster, I must own; But, tho' they should prove the whole Assertion, it will not fix upon the Church in these Years active Countenance to Patrons and Presentations, tho' they did shew to whom Presentations should be directed: For, after the Convention at *Leith* 1572, in which the Tulchan Bishops were established, the Admission to Churches was by Authority put into the Hands

Hands of these Bishops ; so that Presentations were directed to these Bishops, against whom the Church did wrestle till they were got removed : And therefore it is, that these Assemblies, to whom the *Reconsiderer* refers, in order to brangle the Power of the Tulchan Bishpos, appoint and direct Presentations to be directed to the Visitors appointed by the Assembly, whose Bounds of Visitation were not altogether according to the Diocies ; So that the Bishops pretended Jurisdiction did interfere with that of the Visitors commissioned by the Assembly : And, the Assembly finding the Civil Government, who favoured the Bishops, more disposed to have the Churches planted, or Ministers admitted into Churches by the Bishops, Presentations were directed to these Bishops, who gave Collations contrary to the Church's Will, and interfered with the Visitors who had Commission from the General Assembly. Therefore, seeing King *James* was resolved that Patronages should remain, whether the Church would or not, and that it was not in their Power to help it ; for preventing Confusion, and that the Church's remaining Right and Power, as to the Admission of Ministers, might not be lost, they make such Appointments. So the Assembly 1580 appoint, That Presentations be directed to none but to them who have Commission from the General Assembly. And *Calderwood* tells us, p. 91. That the same Assembly 1580, *Declareth all Collations or Admissions, that shall be hereafter given by any pretending to the Stile of Bishops, shall be void in themselves, and of none Effect in Time coming.*" But, says the King, Patronages must continue ; therefore judgeth the Church, Rather than lose our Right and Power, which is usurped by the Bishop, let Presentations be directed as the Assembly advise.

But, says the *Reconsiderer*, p. 35. *Is it lawful to teach a Man to exercise an unlawful Right, or, in plain Language, to commit a Sin ? They should rather have answered the King, That Presentations were to be directed to no Body.*

*Ans.* Now, the Book of Policy was concluded and agreed upon, in it this Church sufficiently declare against Patronages, and in the strongest Terms crave to have them



removed: But, Nay, says the King. Therefore the Church being under such an unavoidable Necessity, that they might not be deprived of an Opportunity of trying and admitting Pastors, they gave such Directions: As if they had told his Majesty, Seeing, whether we will or not, and notwithstanding of all our earnest Supplications and Cravings in the Book of Policy, now concluded and agreed upon by us, you will have Presentations to be given, then let them not be directed to the Bishops, whom we have cast out, who have no Power of trying and admitting Ministers, but to such as the Church have empowered for that End, that our remaining Liberty be not taken from us. All this might have been done, when yet they were perswaded it was a Sin to exercise the Patronage-right, whether the Presentations were directed to a Bishop or a Presbytery.

Here I may stay and speak a Word with my Friend Voet, who, tho' he says, That the Right of Patronage is unjust, unlawful, and hurtful to the Church, and cannot be so limited, as that the Patron can with a good Conscience use that Right; yet he tells us, Par. 2. Lib. 3. Tract. 2. Cap. 7. *Possumus enim aliquando absque peccato nostro alienis peccatis uti (si ita loqui liceat) hoc est, actionibus eorum uti, cum quibus peccatum conjunctum est actionibus per se necessariis intendo.* This he explains and illustrates by a Similitude; A Man, through Necessity, may borrow Money from an Usurer, tho' it be unlawful for the Creditor to lend upon Usury.

It is not in my Power to see what Comment such Directions can be upon the Book of Policy so lately finished, so as to weaken ought of what the *Considerer* judges condemned by the said Book. We have already heard from the Assembly 1582, that, whatever was their Conduct with Respect to Patronages, it was only till the Laws were reformed, which, by the Book of Policy, they earnestly craved. Nor will ought the *Reconsiderer* hath offered, prove such active Countenance to Patronages then, as now: And I have shown that the Church were then passive, they were under an unavoidable Necessity; nor will it follow, from any Thing the *Recon-*  
*siderer*

*joinder* hath said, that they were more active in countenancing Patronages from 1560 to 1596, than of Prelacy, which, as is expressed in our Acts of Assembly 1638, was tolerate from 1572 to August 1575. The true Sons of this Church will not be charged with an active Hand in supporting that Power and Tyranny, or of countenancing Patronages; but heavy are their Complaints because of both; and, tho' they tolerated Prelacy, yet the Assembly 1580, according to *Calderwood*, p. 90. *Declares Prelacy and Bishops unlawful in themselves.* And equally unlawful are Patronages, having *Curam animarum*, declared to be in the 12th Chapter of the second Book of Policy; so that, during the Time of the subsisting of Patronages and Prelacy, the Church were passive; for it will not do to say, that they gave active Countenance to that which they declared to be unlawful in itself.

As to what the *Reconsiderer* says of the Assembly 1593, *That they accepted the Act of Ratification, with a Clause in the Bosom of it, which the Considerer must reckon sinful.* If the *Reconsiderer* had been pleased to notice the Answer in the *Right*, p. 47. he had not come over this Story again; the Words are, *I am perswaded the Church was fond of the Act of Ratification 1592; What then? Will it follow, that they approved of it in so far, as astringing them to the Person presented by the King? No; this will never follow. What they were glad of, and were thankful for, was, that what was in the Hand of the usurping Bishop, with respect to the Admission of Ministers, in vertue of the Act of Parliament 1584, was now abrogated, and returned to the right Owners the Presbyteries, who would not have acted a wise Part to refuse one Privilege because they could not get another. This was the Thing well received by the Assembly 1593: Because they were pleased with the Abolition of Bishops, and the Restoring of Church-judicatories to their just Rights and Privileges; it doth not follow that they were pleased with that particular Part of the Act concerning Patronages. And this is manifest, insomuch, as at that Time the Subscribing of the second Book of Policy, which craves the Absolution of Patronages, was pressed with so much Zeal.*

What

What the *Reconsiderer* says, *That the Assembly 1596 did appoint effectual Dealing with Ministers to accept*; I should in this Place pass it over, because he reckons to have another Opportunity for it; but I must here notice, that this is of a Piece with some other of his unfair Quotations. What were they to accept? No Doubt a Presentation from the Patron, otherwise it is impertinently brought in here, when you are shewing how our ancient Assemblies salved the Right of Laick Patrons. But *Calderwood* and *Petrie* both tell us, That it was a Presentation from a Presbytery, acting *jure devoluto*, that they were to accept, or be dealt with to accept; and this makes nothing for his Lay Patrons: But, as in this *Case*, so in his *Reconsiderations*, he is pleased to put Lay Patrons and Presbyteries in this Matter upon the same Footing, how unwarrantably hath been shown, *Pages 56 and 57* of the *Right*, and may further be noticed, when I come to his *Reconsiderations* on that Part.

*Page 36.* The *Reconsiderer* concludes this Part of his Performance, to use his own Stile, very charitably for himself, *That he hath made it out, that our ancient Assemblies were no less active with respect to Presentations, than what our modern Assemblies are; and shall leave our Author to make what Commentaries he pleases on the Book of Policy.*

*Answer.* 1. He may thus triumph in the Apprehension of Victory as he pleases; but I am afraid he will be found to have counted before the Host. The *Considerer* hath made no Comments on the Book of Policy, upon the Head of Patronages, and the Election of Ministers, but according to the avowed Principles of this Church: And, if the *Reconsiderer's* Glosses on the Managements of Assemblies will not reconcile with this Church's Principles, as laid down in their Books of Discipline, the *Considerer* may be allowed to have given the justest Gloss, when he reconciles their Practice with their Principles asserted in their Standarts of Discipline. But, 2. I will allow the *Reconsiderer* to chew his Cud upon a Challenge I give him, to produce one Instance in all the Years and Assemblies referred to, wherein they thrust in a Person presented upon a Congregation, contrary to the Will of the Con-

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gregation ; and I have condescended on many Instances of this Kind within these few Years : And, unless he had proven this, he will even allow he hath succumb'd in his Probation, being as much straitned for Instances, as he is of Respects to the Book of Policy.

Page 36. He proceeds to canvass what the *Considerer* had said, *p. 41* of the *Right*, viz. *That the Case-writer had not proven that Patronages, in the early Ages, of our Reformation, were more rigorously exercised as now, without the Freedom of Election, Examination and Admission.*

The *Considerer* is yet of the same Opinion, for all the *Case-Writer* hath said in his discreet Reconsiderations ; but, before I proceed to remark on his Reasonings, this may be noticed in the General, That it is not some Instances here and there of Patrons acting arbitrarily, without any Regard to the Laws, which the *Reconsiderer* calls *pleno jure*, that can be adduced as Proof : For of such an arbitrary Way they had no Law to support them, nor were they therein supported by any Presbyterian Judicature ; So that, if the *Reconsiderer* hath stated the Matter aright for a Proof, it should have been thus, viz. That the Laws concerning Patronages, from 1560 to 1592, were more rigorous as now, more prejudicial to the Right of Election, Examination and Admission as now ; and that the Church of *Scotland*, in the Period referred to, conformed more with Patrons in their Encroachments upon the Freedom of Election, Examination and Admission, as they do now. This is the precise State, and, unless the *Reconsiderer* had proven the Matter in this Shape, he hath proven nothing. So that whatever he hath written from *p. 36.* to *p. 45.* of his Reconsiderations, with Confidence enough of his own Sufficiency, this might abundantly serve as an Answer. But, seeing he interlines several Things still expressive of his Affection to Patronages, and further tending to reproach our ancient Assemblies, and to impose upon an unwary Reader, I shall follow him through these Pages, in which he fails not to give repeated Evidences of the sweet Temper he hath been in when he wrote his Performance. *p. 36.* The first Thing he quarrels is, That the *Considerer* *bad said, that we must*  
judge



judge by our Books of Discipline, and not by such lamentable Decisions as of Assembly 1730.

The Words of the *Considerer* need no Apology, and therefore I shall transcribe them as p. 41 and 42 of the Right. To our Books of Discipline we are to appeal, and not to the particular Decisions of this and the other Assembly, which were often more or less pure, as Court-measures did prevail; and I am afraid, if our Posterity were to judge of Things, not by our Principles and Standards, but by what often obtains in our Judicatories, they would hardly be able to think, but that sometimes our Assemblies and Commissions were for the Patronage-right, when, not to repeat other lamentable Instances, the Assembly 1730 appoint the Settlement of a Presentee at Hutton, contrary to the great Body of Heritors, Elders and People; an hundred Years hence, might not our Posterity say, That in the Year 1730 the Church of Scotland were for Patronages, and against the free Election of Parishes? And, to add to this, Will Posterity be able to judge better of the Assembly's Decision 1731, affirming the Settlement of a Presentee at Lintoun, in Opposition to the Majority of the Church-session and People, concurred with by a great many Heritors; How much to the Edification of that Parish, or of the Neighbourhood, the very publick Prints of late have given a most melancholly Account: Or of the Sentences of the Commission in August last, relative to Kinross, where, tho' there was not a Presentation, I find a towering Argument is, That the Man to be settled had the Patron on his Side; he must be settled, tho' in Opposition to the Majority of Heritors and Elders, and of the great Body of Heads of Families? Then they judge and vote it expedient to settle the Presentee at the West-kirk, in Opposition to the Majority of Heritors, to more as Ten to One of the Elders, and to far more as an Hundred to One of the Heads of Families. If the *Reconsiderer* had found such Instances as these in the Decisions of the ancient Assemblies, to which he refers, he might have said, That they saved the Rights of Patrons; but not one such Instance can he produce: This Unhappiness is reserved for the present Age.

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But, says the *Reconsiderer*, *Decisions are the true Explication of Laws to those, who ly at the Remove of so many Ages from the Legislators.*

*Ans.* 1. Give, tho' not grant, it were so, yet hath he not produced one Instance of the ancient Assemblies referred to, deciding in favours of Persons presented in Opposition to the Will and Inclination of the Congregation.

2. Our Books of Policy, which are the Standart in this Matter, determine, as first Book of Discipline, *Chap. 4.* "For altogether this is to be avoided, that any Man be violently intruded, or thrust in upon any Congregation; but this Liberty with all Care must be reserv'd to every several Church, to have their Votes and Suffrages in Election of their Ministers. Then, second Book of Discipline, *Chap. 3. § 5.* In this ordinary Election it is to be eschewed, that na Person be intrusit in any of the Offices of the Kirk, contrar to the Will of the Congregation to which they are appointed, or without the Voice of the Eldership. And, *Chap. 12. § 9.* The Liberty of Election of Persons called to Ecclesiastical Functions, we desire to be retained within this Realm, sua that nane be intrusit upon ony Congregation, either by Prince, or ony inferior Person, without lawful Election, and the Assent of the People over whom the Person is placit; as, the Practice of the Apostolical primitive Kirk, and gude Order craves." Now, allowing these Books of Discipline to stand as they are an Hundred Years hence, not to come over a great many Decisions already mentioned, Mr. *Reconsiderer*, tell me candidly, without Evasion, how the Decision of the Commission *August* last, in the Affair of the *West-kirk*, would explain these Articles of our Books of Discipline? Sure I am, they are *toto cælo* distant.

3. The General Assembly 1731 have transmitted an Overture to the Consideration of Presbyteries, which hath the Force of an Act till next Assembly, appointing Heritors and Elders to be the Electors of Ministers: How shall Posterity an Hundred Years hence judge of the Meaning of that Act and Overture, by the Decision of the Commission in the *West-kirk* Affair, in Opposition to the

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Majority of Heritors and Elders? Will they not think, that, seeing the Overture mentions the Consent of the Patron, that the Commission judged the Consent of the Patron a *sine quo non* in the Election; and from the Whole conclude, That whatever be established in our Books of Discipline, is no more binding than as it saves the Patron's Right, when it is found expedient to settle the Presentee against the Will of the Congregation? How will such Decisions explain our Ecclesiastick Laws?

Page 37. The *Reconsiderer* tells us a long Story, *That the Decisions of the Assembly 1730, and many others, will prove an Hundred Years hence, that there were a Set of wise Men in the Church, who did not think Presentations so great a Scandal as to deserve the highest Censures of the Church; at the same Time, that the Church is established by the same Laws, whereby Patronages are imposed: And the Pamphlet I am reviewing will prove, that there were some Writers of the same Century, who thought the Church of Scotland stood upon a sinful Footing as to her publick Establishments; but they will never suppose such Writers to be Members of this Church.*

*Ans.* I desire to bewail and lament prevailing Corruptions and Defections, and not to enter into the scanning the Characters of the Members of any Society, leaving that to whom it pleases: But sure I am, the thrusting in of Ministers on Parishes against their Inclinations, will never recommend the Wisdom of any Society. 2. The *Considerer* spoke not of the highest Censures of the Church, but he thinks Presentations should be discountenanced, and all the Advantage the Laws give us, should be improved for that End. 3. If the *Reconsiderer* would allow me, I might criticise on what he says, *That the Church is established by the same Laws establishing Patronages.* The Church, say I, is established by the Authority of the great Lawgiver, who hath Power to save and to destroy; and I am sure, by none of his Laws are Patronages imposed. But, passing this, to Civil Laws, Patronages are imposed by a *British Parliament*, after we had, by an Article of the Union, gotten all the Security that can be had by Laws, engaging to the Maintenance

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nance of our Ecclesiastick Constitution as it then stood. 4. I do not see how the inveighing against Patronages, or any Decisions supporting them, will fix on any such an Opinion, as if the Church of *Scotland* stood upon a sinful footing. If the *Reconsiderer* judgeth Patronages a Part of our legal Establishment, he differeth much from the Assembly 1712, who say, *That the Restoring of Patronages was an Encroachment upon our legal Establishment, and legal Security, by the Treaty of Union.* And, by the 9th Act of Assembly 1715, they say, *That, by the Act restoring the Power of Presentation to Patrons, the legally established Constitution of this Church was altered in a very important Point*; by which we see, that Patronages are an Encroachment upon our legal Establishment. 5. If the *Reconsiderer* will not allow Men of the *Considerer's* Principles to have been Members of this Church in 1730 and 1731, Posterity will readily believe they were Members of this Church in 1712 and 1715; if these in 1730 and 1731 could be content to be quit of them, these in 1712 and 1715 would as willingly keep them: And, upon a due Comparison of the Decisions in 1730 and 1731, with the Judgment of 1712 and 1715, I shall leave it to any to judge if the *Considerer* may not pass as a Presbyterian, a Member of the Church of *Scotland*, deeply attach'd to the Constitution thereof, in a Consistency with a plain Testimony against present prevailing Corruption and Degeneracy.

It will hold good against all the *Reconsiderer* hath said, p. 37. That the Act of Parliament 1567 doth more limit and bound the Patron, than the Laws now in Being relative to that Grievance, unless it be the *British Act* 1719, which we have not made the due Improvement of: And I need not look back to the *Reconsiderer's* Instances of *pleno jure*; for, as I have often noticed, if any presented and gave a Benefice without the Church's Examination and Admission, it was a lawless arbitrary Deed, contrary to the Act of Parliament 1567, according to which Patrons were bound to act: And if we compare the Tenor of that Act with the now Practices of the Civil Powers in Cases of Presentations to Churches, it appears too clearly the more rigorous Exercise of Patronages



nages now as then : The Act of Parliament 1567 bears, *That, if the Church refuse to receive and admit the Person presented by the Patron, it shall be leifom to the Patron to appeal to the Ministers of the Province where the Benefice lies, and desire the Person presented to be admitted ; which, if they refuse, to appeal to the General Assembly of the whole Realm, where the Case being decided, shall take End as they declare.* Here all the Patron was to do, was to appeal from one Judicatory to another, till the Affair came before the General Assembly, in whose Sentence he behoved to rest ; But now, the Patrons, instead of managing their Affair by Appeals, procure Sifts of Ecclesiastical Procedure from Civil Judges.

As to what the *Reconsiderer* says, p. 37. of 1571, Whoever consults *Calderwood* upon that Assembly, p. 47. will find these to be his very Words upon the Jurisdiction of the Kirk, Article 2. *They assert to belong thereto, the Election, Examination and Admission of them who are to be put into the Ministry, or other Functions of the Kirk, Charge of Souls, and Ecclesiastical Benefices.* Upon which, says the *Considerer*, p. 42. *Is there any Thing here but what is agreeable to the first Book of Discipline, where not one Iota of the Right of Patrons? And what tho' they came not so good Speed at the Regent's Hand in obtaining the Civil Ratification of the Right of Election, did they give up with it? did they part with it to the Patron against the People, which alas is now-a-days the too current Practice of our Judicatories?* It is true, the Commissioners of the Assembly gave in Articles to the Parliament in August, craving Benefices to be only bestowed on qualified Persons, whose Qualifications should be tried by the Kirk : But, if we take Presentations to Benefices in the Sense that now obtains, there is no more in that of 1571, than this, 1. Seeing Patronages cannot be got removed, we crave that the Laws concerning them may be strictly observed, that none transgress the Law in presenting without Regard to the Church. But, 2. The Church certainly claimed more than is expressed in the Act 1567, even the Freedom of Election ; so that the *Reconsiderer* is mistaken, when he says, *Their Complaint was only against what he calls pleno jure Collations, which had no Respect*

*spect to the Church's Examination and Admission ; for the Assembly 1571 craved also the Security of Election ; And the Considerer will yet assert, That by no Law was Examination and Admission denied the Church. But,*  
 3. Considering how bent the Managers then were to have Prelacy established, the Church had Need to have a Renewal of their Security as to Examination and Admission ; because, tho' still it was pretended to be continued with them, yet the *Tulchan* Bishops were like to get the whole Management of it. 4. If we look through our Ecclesiastick Histories of these Times, and into our Books of Policy, we will find, that very often there is a Difference put between Benefices and Ministers Stipends : In the Years referred to, there were Collectors of the Thirds of Benefices, out of which Ministers Stipends were paid ; besides which there were Presentations to Benefices of Persons who did not serve at a Church, as in a forementioned Instance of a Benefice bestowed on the Laird of *Skeldrom* : And, when our Assemblies apply to the Civil Power about the Disposal of Benefices, it is that they may not be alienate from the Church's Use, and bestowed on them who serve not in the Ministry, who having Endowments from the Crown, were slack in Payment of the Thirds out of which the Minister's annual Locality was then paid. For Support of this, we find the Assembly 1581 appointing Articles to be proposed to the King and Council, among which this is one, *That Benefices vaking, may be disposed unto the Ministers where the Benefice vakes* : A plain Intimation, that another than he who was Minister of the Parish, had enjoyed the Benefice, the Minister having a small Assignment out of the Thirds ; but the Church thought it reasonable that they should have the Benefices ; and therefore might crave that they might not be disposed to any as these qualified for Service in the Ministry. In an Assembly that same Year they crave of the Government, *That all Benefices of Cure under Prelacies be given to Ministers only, and all other Gifts of them null* ; A sufficient Proof, that others as Ministers had Gifts of Benefices, and the Ministers were left to seek their small Assignations out of the Thirds. In a Manuscript Copy of the Acts of Assembly before me, I find the As-

sembly 1583 complaining, *That Church-livings are given to Children.* I might offer a great deal more upon this Head, but what I have said will show what Occasions there were for the Church's Petitioning so frequently about the Disposal of Benefices, and that no Manner of Respect to Patronages can be inferred from their Conduct that Way : And all I shall add shall be this, That, if Ministers were so commonly presented to Churches in the Years referred to, as the *Reconsiderer* alledges, why was there such a constant Clamour that they wanted Assignations to their Stipends ? Did not their Presentations specify what Stipend they were to have ?

What I have said, doth abundantly show, that the Presenting without Regard to the Church's Examination, was a lawless arbitrary Deed, none of the Laws in the Years referred to giving any Countenance thereto ; so that the *Considerer's* Queries will be found so much to his Purpose, as that the *Reconsiderer* hath not attempted to answer them. And, if Notorial Calls and modern Courts of Correspondents be as frightful as our worthy Fathers thought *pleno jure* Presentations, the *Reconsiderer*, in saving the Rights of Patrons, hath made a poor Apology for the Manner that some take of settling Presentees.

Page 38. He next tells us, *That the Considerer runs to the Book of Policy, for which I cannot blame him, seeing that one dubious Paragraph is all he has to say since the Reformation, that looks like a Colour for his Opinion.*

*Answe.* 1. My Opinion is, That Patronages are unlawful in themselves, and that what is in itself unlawful, cannot be so limited, as to be lawfully exercised. The Book of Policy says, *Chap. 12. Sect. 10. That Patronages and Presentations to Benefices has no Ground in the Word of God, but is contrary thereto, and ought not now to have place in this Light of Reformation.* I think the *Considerer's* Opinion will agree with this. But, 2. Mr. *Reconsiderer*, Why call you this a dubious Paragraph ? Do you think it dubious, that Patronages and Presentations to Benefices, due to Ecclesiastick Persons, have no Warrant in the Word of God, or ought to have place in this Light of Reformation ? 3. Are you sure, that in all these

these Hundred and seventy Years past since the Reformation, the *Considerer* hath nothing for his Opinion but this Paragraph in the Book of Policy? What tho' there were no more? Is not this a sufficient Declarature of the Opinion of this Church? Did not even the Parliament, in 1649, pass an Act abolishing Patronages, as having no Foundation in the Word of God, for which the Assembly that Year was justly thankful? Did not our Assemblies 1712 and 1715 complain, *That, by the Act restoring Patronages, the Constitution of this Church was altered in a very important Point*? I have not told the *Reconsiderer*, in the Terms of one of his dry Taunts, That he might as well have said, since the Creation; but, having so widely misrepresented or mistaken this Matter, he might have placed his Assertion among the *Errata* at the End of his Performance.

But, next, comes out his mighty Observations upon the Book of Policy, which, when it cannot escape his Reflection, the *Considerer* may discover what for an Adversary he hath.

Page 38. He says, *That Part of the Book of Policy was never made a Part of our legal Establishment.*

*Ans.* What then? Was it not agreed to by the Church?

Were not all their Ministers bound to submit to it? Was it not a Declarature of the Opinion and Principle of this Church?

Is it not according to the Word of God, that Law by which you and I must be judged?

2. He says, *That Article of Patronages was one of the Heads long debated by the Church, concerning which the Commissioners of the Parliament, and the Church could not agree, but referred to further Consideration.*

*Ans.* I hope you will not deny but the Church did agree upon it; and it will not follow, that it was either dubious or untrue, because the Commissioners of the Parliament did not agree to it. The Assembly 1715 agreed, *That, by the Act restoring Patronages, the Constitution of this Church was altered in a very important*



Point: If the Parliament had been of the same Opinion, we had been relieved of this Grievance; but, because they were not so minded, it will not follow, That the Assembly's Memorial was dubious.

3. Says he, *It stands only among the special Heads of Reformation craved, and it is easy to suppose the more Moderate yielding in a Point, which was rather to be craved than expected at that Juncture.*

*Ans. 1.* You speak, as if you would suppose some of the Ministry at that Time esteemed Patronages to have Foundation in the Word of God; but that, in the Depth of their Moderation, they yielded to crave the Abolition of it, because it had no Foundation in the Word of God, but was contrary thereto. Moderation to Excess! But, *2.* When you commend their Moderation, you busk them in a Fox's Skin, yielding to its being craved, because it was not to be expected. *3.* In a Manuscript Copy of the Acts of Assembly, before me, I find in an Assembly at *Edinburgh, October 1st 1577*, two Heads of the Policy called in Doubt, *de diaconatu, & de jure patronatus*, which are to be reasoned upon. In an Assembly *October 25*, that same Year, *Session 13*, the Heads of the Policy and Jurisdiction being wholly read, *The heal Assembly thought guide the same should be presented to the Regent, and that de diaconatu shall be given in with a Note, as agreed to by the most Part of the Assembly, without Prejudice of further Reasoning.* Now, when the Assembly took Notice of the Minority differing *de deaconatu*, it is plain they were unanimous at last in their Opinion *de jure patronatus*. And, as to the Head *de diaconatu*, I find, in an Assembly met at *Edinburgh, April 24, 1578, Sess. 6.* no Argument offered by any in the Assembly against the Head of the Policy *de diaconatu*. So the Records speak.

And *Calderwood*, p. 257, tells us, "That the Assembly 1590 appoint all bearing Office in the Ministry to subscribe the Heads of Discipline, as at length set down and allowed by Act of the whole Assembly, in the Book of Policy, and namely, in the Heads controverted by the Enemies of the Discipline of the Reformed Kirk of this Realm." I am afraid such an Assembly would

would either have clear'd the *Reconsiderer* of his Doubts; or given him little Thanks for his Moderation.

4. The *Reconsiderer* next tells us, *That this Article in the Book of Policy was chiefly with a View, that the Church might recover free Elections, and the Patrimony of the Church, into her own Hands.*

*Ans<sup>r</sup>.* 1. And was not this highly reasonable, if there were any of the Church, then or now, in Doubt as to the Church's Right of Election, or as to the having the Patrimony of the Church in their own Hands, they should speak out plain for Patronages, allowing them an elective Power, and a Right of disposing the Church's Patrimony? 2. From this very End condescended upon by the *Reconsiderer*, we see that Patronages are hurtful to the Church's Right and Interest, and therefore in Reason and Justice ought to be removed. But, says the *Reconsiderer*, *We have now the Freedom of Election.* *Ans<sup>r</sup>.* If that were, Why so many violent Obtrusions of Ministers upon Congregations, in order to make effectual the Settlements of Persons presented? But, suppose Elections did at present more freely prevail, according to the *Reconsiderer*, the Patron hath the disposing of the Benefice, which is the Patrimony of the Church. Now, if, according even to his Comment upon the Book of Policy, the Church should have her Patrimony in her own Hands, he must either give up with that Comment, or with all he hath said of the Patron's Power of giving a Right to the Benefice. 3. I make no Doubt but the Church their claiming the Patrimony into their own Hands, stirred up worldly Men to oppose the Policy; but this never militates against the Church's Right, which they give up with, who put the Right of presenting to Ecclesiastick Benefices, into the Hands of Patrons, as if (according to the *Reconsiderer*) *Presentations were an instituted Right, generally thought convenient for securing a Minister's Right to his Stipend.*

5. The *Reconsiderer* pretends to condescend on several Points of the Book of Policy, that the *Considerer* will not plead for.

*Answ.* I shall go through these Points, giving an Answer to each of them; but I may passingly observe, how fain he would have some Points in the Book of Policy not binding, so as he may resist the Force of what he calls, *The dubious Paragraph concerning Patronages*. 1. As to that Point of an Assembly of Elders in every particular Kirk, that could not at that Time and State of the Church be had: And I am pretty confident, if our Elders were in any Measure qualified, as they ought to be, that Point in the Book of Policy, to this Day, would need to take place in our Part of the World. However, but a very short while after the Book of Policy was agreed upon, a Session of Elders was appointed to be in every Parish. 2. As to the second Point, if the Patrimony of the Church were duly disposed of, there might be a Part assigned to Elders and Deacons. 3. As to the 3d Point, the Book of Policy doth so give the Election to the Elders, as that the Consent of the People is a *Sine quo non*, as Chap. 12. *None are to be intrusit into any Congregation, without Election and the Assent of the People*: This is materially a popular Call. 4. As to the Synod of Fife's Answers to the King's Queries in 1597, I know nothing the *Reconsiderer* can make of these, but to prove my Point, *namely*, That, however the Election be set about, the Consent of the Flock ought to be had. But perhaps he thinks their Answers will agree with the Overture of last Assembly, concerning the Consent of the Patron; but, if both be compared, he will find a Mistake: The Overture makes the Patron's Consent necessary; the Synod says, The Patron should give Consent. But *Calderwood*, p. 390, gives other Answers, more consistent with our Principles and Books of Policy, which will be found to agree with the *Considerer's* Principles, *viz.* "This Word *Patron*, and *Presentation* of Patrons, est *humanum institutum*, and hath no Warrant *ex jure divino*; and therefore importeth no Necessity of Consent. As to the Consent of the People, no Man will deny but it is necessary to be had."

6. Says the *Reconsiderer*, p. 39. *The Patronages complained of, are such as marred a free Election.*

*Answ.*

*Ans. 1.* And do not the Patronages we complain of, also marr a free Election? Is the *Reconsiderer's* Memory so short and brittle, that he hath forgotten who voted the Expediency of settling the Presentee at the *West-Kirk*, against the Will of the Congregation? Do not Patrons procure Sifts of Ecclesiastical Procedure, when their Presentees are not consented to? 2. Presentations to Benefices, having *curam animarum*, is one of the Things craved by the Book of Policy, to be abolished; and the *Reconsiderer* himself, in his fourth Observation upon the Book of Policy, says, *They craved the Abolition of Patronages, for Recovery of the Patrimony of the Church into their own Hands, as well as the Freedom of Election.* So that, if he would not give up with this fourth Remark, he must allow Patronages to be unlawful, as sacrilegiously meddling with the Patrimony of the Church, as well as marring free Elections; both which are chargeable upon our present Patrons, and shew the Unlawfulness of their Title.

7. He says, *The Book of Policy alloweth the ancient Patrons the Right of presenting to Benefices, not having curam animarum.*

*Ans.* He should have given his Remarks on this; but, not having done it, I shall transcribe the whole Paragraph, and let it speak for itself, *Chap. 12. Sect. 11.* "Notwithstanding, as concerning the Patronages of Benefices, that have not *curam animarum*, as they speak, such as are Chaplainries, Prebendaries, founded upon Temporal Lands, Annualrents, and sicklike, may be reserved unto the ancient Patrons, to dispose thereupon, when they vaik, to Schools and Bursers, as they are required by Act of Parliament."

Page 39. The *Reconsiderer* says, "Our Author remarks, That the Privilege of Examination and Admission was allowed in the Pope's Kirk, but he forgot the Thing complained of in the Book of Policy, was the Want of free Election, which was rarely practised there, except when the Patronage was Clerical, &c."

*Ans. 1.* The *Case-Writer* tells us, p. 9. *That from 1560 to 1552, we find no other Complaints but of the Abuse*



*Abuse of Patronages by the pleno jure Collations of inhabitable Persons*; and p. 8. *That Examination and Admission was only craved.* Now, said the *Considerer*, they claimed something more as Examination and Admission; for the Book of Policy condemns Presentations as used in the Pope's Kirk, where Examination and Admission did obtain. 2. If the Freedom of Election was craved in the Book of Policy, the *Reconsiderer* contradicts a great deal of what he had said, *That, in the Times referred to, this Church made no other Complaints but of pleno jure Collations*, which in his Sense was, that they rested with Examination and Admission; and yet he now says, *That in the Book of Policy they craved also the Freedom of Election.* 3. The *Reconsiderer* did right not to say, that Election did never obtain in the Papacy, even when the Patronage was not Clerical; because I had shown him both from the Canon Law, in which the Calling of Ministers, is called *petitio plebis*, and from Practice, where there was Election of Bishops notwithstanding of Presentations. But I will have Occasion afterwards more fully to speak to this. 4. As to what the *Reconsiderer* speaks of some Protestant Churches, their not enjoying the Freedom of Election; I suppose he means the Church of *England*, and he will remember that the Act restoring Patronages, by which our Freedom of Election is taken away, is a *British Act*.

The *Considerer*, Pages 43, 44, says, *The Case-Writer tells us, that the Assembly 1582, promised to meddle with nothing that belonged to the Civil Power; but will it follow from this, that they promised not to meddle with Patronages? If that was their Promise, with the very next Breath, the Case-Writer brings them in breaking it, petitioning the King against Patrons, who conferred Benefices by absolute Power, without the Admission of the Church, so that their Promise meant something else than their not meddling with Patronages. Oh! but says the Reconsiderer, it will follow, because they say in these express Words, And the Acts to be nowise prejudicial to Laick Patrons, till the Laws be reformed.* I have, on that of his salving the Right of Patrons, shown the Meaning of this Clause, and to it I refer; only I ask him,

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Was not the meddling with Presentations by absolute Power a meddling with Patronages? But, says the *Reconsiderer*, *What Breach of Promise was it to allow the Patron his lawful Privilege, and yet complain of abusing them contrary to Law?* I answer, 1. The King did sometimes present by absolute Power, and the complaining of it, was a meddling with what the King thought he had a Right to do. 2. I would fain know what the *Reconsiderer* means by the lawful Privilege of Patrons. Speak out, and tell us, if you think their Privileges lawful, providing they present not in an absolute arbitrary Way? According to you, the Compilers of the Book of Policy erred, in craving Patronages to be abolished. But I remember you call that a dubious Paragraph. According to you, the abolishing Patronages, in 1649 and 1690, was a real Act of Injustice; and the restoring them by King *Charles II.* and Queen *Anne*, were Acts of Justice; and so our Assemblies in 1712 and 1715 were in an Error, in saying, That, by the Act restoring Patronages, the Constitution of this Church was altered in a very important Point. 3. I have already shown, that, even after the Rectification of arbitrary Presentations, the Assembly 1582 wanted also the Laws establishing Patronages to be reformed: But it seems the *Reconsiderer* wants no other Reformation of the Laws establishing Patronages, than the Correction of arbitrary Proceedings, if they shall act without Regard to the Church's Examination and Admission. 4. It is worth the noticing, what the *Reconsiderer* says, p. 40. *That he cannot agree to my Apology for the Assembly 1582; which Apology you have, p. 44. of the Right considered, viz. All the Amount of their Complaint, if we wrong not their Testimony in the second Book of Discipline, is, That, altho' we have proposed, and agreed upon it, as the Opinion of the Church, that Patronages and Presentations to Benefices are contrary to the Word of God, and ought to be removed; yet Corruptions on that Head run now so high, as that some Patrons violate the Act of Parliament securing to Church-Judicatories the Right of Examination and Admission.* Now, if the *Reconsiderer* cannot agree to this Account of the Assembly 1582,

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let him never pretend that the Act *decimo Anne* is a Grievance.

As to the *Reconsiderer's* Wish, about my keeping my Promise ; I suppose he means that of never turning *Jacobite*, which, when he falls short of Matter, he repeats *ad nauseam*, as if the *Considerer* were, or ever had been, suspected of *Jacobitism*, from which he needs not purge himself to any that knows or ever knew him, never having had any Scruples about abjuring the *Pretender* ; and that he may keep his Oaths the better, and not ly open to Temptations, he assures the *Reconsiderer* he hath no Commerce with Papists, nor did ever a Popish Priest lodge in his House.

Whatever Exceptions the *Considerer* had against the Assembly 1586, the *Reconsiderer*, p. 40. uses too hard a Word in charging him with the abusing that Assembly ; and it will be found that I have done them no Injustice, if what is said, p. 44 and 45 of the *Right*, and also in this Performance, be duly weighed.

He again tells us in the same p. " That what the *Considerer* had said on the Instances of 1592 and 1593, " when the Church did well receive the Act of Parliament, whereby the Patron's Power was established " higher than is claimed at this Day in our Church ; are " partly Mistake, and all wide of the Purpose."

*Ans.* The *Reconsiderer* speaks of a Power claimed by the Patron in the Church ; I thought his Power had been over the Church, and that *qua* Patron he is no Church-Member. 2. If there be no such Syllable in the Act of Parliament 1592, as rejecting the Congregation's Right to elect their Ministers, which is done by the Act 10mo *Anne*, the *Reconsiderer* hath it yet to account for, why he said that the Patron's Power was established higher in 1592, than now. 3. The *Reconsiderer* will mind, that one of the King's Questions, in 1597, admits of Elections, and makes the Consent of the greatest Part of the Flock necessary ; but the Act 10mo *Anne* discharges any Respect of that Kind.

In the same 40 p. he says, *That Mr. Petrie hath led the Considerer wrong in Point of History, when he says, That the Power of receiving Presentations, from 1584,*

was in the Hands of the Bishop ; for the Assembly 1587, of which Mr. Andrew Melvil was Moderator, and the Assembly 1588, of which Mr. Robert Bruce was Moderator, appointed others, with the Title of Visitors, to plant Kirks, and depose Bishops, who had the like Power with the figurative Bishops in 1586.

Ans<sup>r</sup>. 1. Both Calderwood and Petrie will support the Considerer's Assertion, p. 46. of the Right, That, when Presbyteries were fully established, the very Superintendents and Visitors of Churches are thought no more necessary, and Ministers are to be admitted by the Presbytery. But this goes beyond 1588. 2. The Considerer disputes not the Appointment of Visitors by the Assemblies 1587 and 1588. But yet it will hold, that the Power of the Bishops, established by the Parliament 1584, was not taken away in these Years. The Church then wrestled against their Power, and, for a Counter-balance thereto, appointed Visitors who received their Directions ; yet, for all their Wrestle and Struggle, they had the Act of Parliament 1584 in their Teeth, in Favours of the Bishops, which Act was not repealed till 1590. So that the Considerer is not so far out in Point of History, as his Adversary would alledge, which it seems he was conscious of, by what he adds by Way of Secondly, viz.

“ Allowing this to be Fact, it goes no Length in weakening the Case ; because, if Presentations be sinful in the Hands of a Bishop, they will be more sinful in the Hands of a better Man, the Moderator of a Presbytery ; or, if it be sinful in a young Man to accept a Presentation conform to standing Laws and common Practice, the Assembly cannot escape Censure, who accepted of a Law establishing Patronages, and that without Exception.”

Ans<sup>r</sup>. 1. The Considerer never said that Presentations were unlawful as directed to a Bishop, and lawful as directed to a Presbytery ; but holds to Voet's Opinion, That they are so unlawful, as, by the Help of no Distinctions or Limitations, the Patron can with a good Conscience use them. So that, 2. They ought not to be accepted when their Force depends thereupon. Nor is the Parallel equal, between a Presentation's being directed to a Presbytery, and



and a young Man's accepting : The one is the Deed of the Patron, the other of the Candidate for the Ministry. 3. The *Considerer*, p. 47. of the *Right*, hath shown what the Assembly 1592 were fond of, namely, the repealing the Act 1584, concerning Bishops, and vesting that Power in the Presbytery ; it could not consist with their Zeal at that Time, in pressing the Subscription of the Book of Policy condemning Patronages, and to say that they accepted of a Law establishing them. If the supreme Authority would still maintain the Patron's Power, what could they help it ? were they to refuse one Privilege, because they could not get another ? 3. It will continue an undeniable Maxim, *Malum ex quolibet defectu* ; but what doth that militate against the *Considerer* ? It shows, that, for all the Favour shown the Church by the Act 1592, the Favour was not compleat, but defective, as long as such a Grievance upon the Church stood established by Law ; yet, in so far as thereby what else concerned the Liberty and Jurisdiction of the Church is ratified, this was well received by the Assembly 1593.

I make no Doubt but the *Reconsiderer* is for a quiet Submission to Patronages, when he will not say, *That they are unlawful in themselves, or that a limited Patronage is in some, or in a lesser Degree sinful*. For, according to these, he would make them in their present Situation no Grievance at all. I make as little Doubt of his Sincerity in esteeming them seditious Praters who oppose this usurped Title : But a Mover of Sedition was a Charge brought against One who is out of the Reach of such *Erastian* Praters. And, I doubt not but, were these bright Luminaries living, who composed our Books of Discipline, or these who influenced the zealous Remonstrances and Memorials against Patronages in 1712 and 1715, our *Erastian* Prater would have thought it safe not to peep or mutter about what he hath so confidently prated.

He hath given no Answer to the *Considerer's* Question, in what Sense he, or our new-fashion'd Presbyterians, think Patronages unlawful ; only he says, p 41. *That he esteems them unlawful in the Sense the old-fashion'd Pres-*  
*Dy.*

*byterians did, when they hinder the Election, Trial, and Admission of Ministers.*

But, doth not the Book of Policy say, That they have no Warrant in the Word of God? Therefore the *Considerer* must repeat, as unanswered, what he had said, *p.* 48 of the *Right*, *That, if neither in their rigorous Exercise Patronages were esteemed unlawful in the Church, nor unlawful in their pretendedly limited Exercise, nor absolutely unlawful in themselves, it is hard to conceive in what Sense he, or our new-fashion'd Presbyterians, will have them to be sinful or unlawful.*

It is a short Way of answering which the *Reconsiderer* takes, in alledging my *Considerations* to be out of the Way: He might have answered, if he was able, what hath been said, *Pages* 48 and 49 of the *Right*, and have proven, if he could, when it was that the Church of *Scotland* did not judge Patronages sinful; or that a *limited Patronage* was not in some, or in a lesser Degree sinful; or that a *Presentation* was an instituted Right, generally thought convenient.

I am neither afraid or desirous of Court-vengeance, tho' it would seem, if the Court were at the *Reconsiderer's* Devotion, I might expect more as a Sprinkling therewith: And, tho' I should be persecuted for adhering to the Principles of this Church on this Head, I would not be the first Confessor of many, if the *Reconsiderer* would please to remember that famous Act in 1662, which turned out so many Ministers of this Church: And no Man can read our History, but will see how much Opposition our ancient Worthies met with in the Matter of the Book of Policy; and the great Ornament of this Church, Mr. *Andrew Melvil*, who had such a Hand in framing it, was a constant Eye-sore to the Court, till such Time as, to the great Reproach of our Land, he was laid under Confinement, from which, at that Time, no Influence could relieve him, till he was demanded by a foreign Prince, who had a greater Sense of the Value and Usefulness of the Man.

What the *Reconsiderer* hath said upon the Annexations, will support what was said, *Pages* 49 and 50 of the *Right*, *That the Assembly 1591 petitioned the King and Council*  
*that*

*that Patronages might be discharged.* For, when the King annexed Patronages to the Lands of Earls, Lords, Barons and others; the Assemblies 1589 and 1591 craved the Annulling of such Dispositions, and inhibite Commissioners and Presbyteries to give Admission or Collation to any Person presented by these new Patrons.

This doth not say that they at all countenanced Presentations by the King, against this they had testified in the Book of Policy; but now, that the Grievance is growing, they cannot make stronger Remonstrances, than to inhibite the Admission of Persons thus presented. And if, according to the *Reconsiderer*, p. 23. the Power of the Patron, and the Magistrate, is the same in Kind in the present Debate, that is, derived from the Magistrate, he makes a sorry Account of the Assemblies 1589 and 1591, who inhibite the Admission of Ministers presented by these new Patrons, if he will not, with me, understand it of their Opposition to the growing Grievance of Patronages.

I wonder how the *Reconsiderer* would so often repeat it, as if this Church only petitioned to have the Abuse of Patronages removed, when he knows how earnestly they solicited the Government to have the Book of Policy ratified, in which Patronages are condemned, as contrary to the Word of God, and as having no Foundation therein; and I am of Opinion, as more are, that the *Reconsiderer* hath not duly considered the Contradiction in the Case, how a Church can quietly submit to a Grievance, and yet make pressing Instances against it.

Page 42. He says, *The Considerer declaims against the Case with no great Stock of Charity or Candor, representing the Case, as saying, That our Church was content with Patronages, tamely yielded up the Church's Right of Election, and that they sought not to be free of Patronages. All these are his own judicious Inferences, which he has very honestly represented as the Case-writer's Words, or the Scope of them.*

*Ans.* The *Considerer*, Pages 50 and 51 of the *Right*, said, That the Scope of the *Case-writer* is to prove, that, for the Space of 32 Years after our Reformation, this Church was content with Patronages, provided that Presbyteries had the Examination and Admissi-  
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on ; and that they tamely yielded up the Church's Right of Election, and sought not to be free of Patronages, nor complained of any Thing in their Exercise but this, when Persons presented were obtruded on Parishes without Examination and Admission. Now, how can this be call'd a Misrepresentation of the *Case*, which, *p. 9.* lays, *That from 1560 to 1592, they pronounced it not sinful or unlawful to submit to Patronages ; and in all which Time we find no other Complaint, but of the Abuse of Patronages by pleno jure Collations of inhabile Persons.* Now, I refer it to any equal to the *Reconsiderer* in drawing judicious Inferences, if the Words of the *Case* will not bear the Representation of what I have given as their Scope.

The *Considerer* hath shown, that in the Cases of *New-machar, Old-machar, Crimond, Oyn, Hutton, Renfrew and Cussonie*, Freedom of Election, Examination and Admission did not obtain : And if it be true, that our ancient Assemblies only complained against his *pleno jure* Presentations, and not where the Presentee was duly elected and admitted, he supposes for true what himself frequently denies, *viz.* That, in the Years referred to, the Freedom of Election, as well as of Examination, did obtain, except in some Instances, where Patrons acted arbitrarily, without Regard to the Laws. I wish the *Reconsiderer* would think of retracting what he talks with such Confidence.

But, having, *p. 43.* offered another Condition of his Retraction, *viz.* *If the Considerer can produce any one Instance of a Man's being censured for the Sin and Scandal of accepting Presentations.*

For Answer, I refer to the *Reconsiderer*, if he can refuse it, that Persons accepting Presentations have been censured by Synods and Presbyteries, both *South* and *North* ; but I presume he will not deny the Thing.

But, perhaps the *Reconsiderer* will say, *These were not Censures inflicted by a General Assembly.*

*Answe.* Tho' it is to be regreted that Persons accepting Presentations are countenanced and supported, yet the *Reconsiderer* will remember the Risque that one of his Confederates run at an Assembly, because of a scandalous  
Accep-



Acceptance of a Presentation. And, altho' nothing be done by Assemblies in a Way of Censure against such Accepters, this serveth only to heighten the Complaint, that since Acceptances became so fashionable, the very Reference of the Assembly 1724 to their Commission, *to consider what is proper to be done as to Ministers and Probationers who shew a Willingness to accept of Presentations from Patrons, and to propose an Overture hereupon to the next Assembly*, hath been neglected and forgotten.

But, perhaps the *Reconsiderer* wants an Instance of Persons censured by our ancient Assemblies for accepting of Presentations.

*Ans. The Law then required no such Thing as an Acceptance to make the Presentation valid : And I desire the Reconsiderer will shew me any Presbyterian Church that gave any the least Countenance to Presentations, when it was in the Power of their Hand to get rid of them, as it is now in ours, having no more to do than not to accept, and then they have no Force in Law.*

*Page 43. The Reconsiderer proposes another Condition of retracting what he hath said upon Patronages and Presentations, viz. If the Considerer will produce any Christian Church, or Writer of Credit, who maintains this Position, Jus patronatus nullo modo est licitum.*

*Ans. In the 25 p. of the Right, the Question is, Num jus patronatus sit ullo modo licitum in Ecclesia Dei ? Now, if the Reconsiderer will retract his Erastian Doctrine upon Production of a Church or Writer of Credit, who judge Patronages to be noways lawful in the Church, let him read the second Book of Policy, Chap. 12. § 10. Calderwood in Answer to the King's Questions, p. 390. Didoclavius, Rutherford, Park, and Gillespie in his Miscellany Questions ; Assembly and Parliament, Anno 1649, and the Assemblies 1712 and 1715, and the Opinion of the Synod of South-Holland in Brandt's History, Vol. 3. p. 432. Sibrandus Lubertus in his Answers to Grotius's Pietatis Hollandiae, p. 166 ; and Beza's Confession, cap. 7. and Voet's Polity, par. 2. lib. 3. tract. 2. cap. 3. Upon all which I will afterwards more fully enlarge ; for it will be found, they look on*

on Patronages as altogether unlawful, as having no Foundation in the Word of God, or in sound Reason. The *Reconsiderer* may retract, or break his Promise, whichsoever of them suit with a Writer of his Credit.

I proceed now to the 43 and 44 Pages, in which we have renewed Evidences of his Unfairness in his Quotations; In the the 43 p. he says, *That the Considerer charges the Case-Writer for receiving the whole Doctrine of the Canon Law.* No Doubt the Canon Law had sundry Things in it strict and good, but he who receives the whole Doctrine thereof receives sundry Things unwarrantable. But, whoso reads the 51 p. of the *Right*, will find, that the *Considerer's* Charge is in these express Words, That the *Case-Writer* receives the whole Doctrine of the Canon Law concerning Patronages; a quite different Thing from his Charge.

Another Swatch of the *Reconsiderer's* Fairness in quoting, we have, p. 44. in which he charges the *Considerer*, "as giving this Definition of Patronages from the Canon Law, *Jus nominandi vel presentandi ad officium vel beneficium*:" When yet the *Considerer* says, p. 5. of the *Right*, That this Definition carries it higher than what is done by the Canonists themselves: And so far is this from being a Canon of the *Considerer's* framing, that the same Definition will be found in *Park*, p. 3. whom the *Case-Writer* quotes, and from whom he appears not to differ, in the 68 p. of his *Reconsiderations*, viz. *That our Divines have taken Beneficium in a complex View, beneficium conferre, est utrumque jus conferre, as comprehending both the temporal and the spiritual Part.* This is the same Thing with the Definition excepted against.

Page 44. The *Reconsiderer* says, "There is another Definition omitted by our Author, and quoted by the learned Author of *Altare Damascenum*, viz. *Jus emendandi vel corrigendi, unde jus patronatus dicitur passim jus nominationis*, which the *Case-Writer* does not receive, viz. to nominate or elect, which ruins a great Part of our Author's Scheme. That Patronages by ancient Definitions and Limitations were as strict as now, and that our Laws give no other Definition of them, than

“ obtained in Time of Popery, it destroyes his first Chapter of Definitions, and renders the second Chapter of History, and a good Part of the third, useles.”

*Answ.* 1. If the *Reconsiderer* had been for proving the Definition of Patronages to be a Right of nominating and electing, the Definition the *Considerer* gave, *p.* 5. from the Canon Law, *Lib.* 1. *Tit.* 28. *viz.* *Potestas præsentandi instituendum ad beneficium vacans*, was stronger for his Purpose than what he quotes from *Didoclavius*, *viz.* *Jus patronatus dicitur passim jus nominationis*. 2. As the *Reconsiderer* hath not been able to disprove the Justness of my Quotation from the Canon Law, into which it seems he hath not taken the Pains to look; so he should have condescended upon a stricter and more limited Definition of Patronage, if any such now obtain, before he had insinuated, that by ancient Definitions the Right was carried higher as now: But it is worthy of our Observation, that, tho’ he will not call Patronages unlawful in themselves, nor a limited Patronage, in a lesser, or in some Degree sinful; he yet conceals his own Notion or Definition of this Patronage-right; in which I think he did well, because I am afraid he will find no other Definition of that Right, than what obtained in the Time of Popery. 3. He should have been so good as to have let us see, wherein the Definition from *Didoclavius*, either renders the *Considerer*’s first Chapter of Definitions, or second Chapter of History, or third Chapter, useles: For, if a *jus nominationis* be to elect, which I am glad the *Reconsiderer* confesses, then the Patron’s Power is an elective Power; and the *Considerer*’s Definition from the Canon Law is of the same Amount. There is one Particle in the *Considerer*’s second Chapter of History, which, I am sure, the Definition from *Didoclavius*, and the *Reconsiderer*’s Interpretation of it, doth not render useles; and that is, *p.* 9. of the *Right*, the Words of the Act *decimo Annæ*, &c. *viz.* “As concerning the Call of Ministers by the Heritors and Church-sessions, that it had proven inconvenient, and had occasioned Heats and Divisions, therefore the Right of Patrons is restored and confirmed.” So that I shall leave it to any to judge, if this doth not more expressly give an elective Power

Power to the Patron, than the *Reconsiderer's* Quotation from *Didoclavius*; so that the *Considerer's* Chapters will yet be found of some Use.

The *Considerer* hath said nothing concerning present Managements of Church-judicatories, in the Countenance given to Patronages, but what he is able to vouch, and what the *Reconsiderer* hath not been able to disprove; for, when he comes to these Instances, he either deals in Generals or gross Misrepresentations. The *Considerer* never intended to abuse our Assemblies ancient or modern; and I think the *Reconsiderer* hath little Veneration for either, when he would bring them in of the same Mind with himself, viz. "That Patronages are not unlawful in themselves, and that they were fond of an Act nailing them down on themselves and Successors;" which I have considered already, and shall leave what may be said to his Satyr on the listing of Candidates, till I come to what he offers on the Assembly 1642.

Page 45. The *Reconsiderer* proceeds, with his usual Civility, to explain, as he calls it, the *Considerer's* Dream; "That the free Choice of Ministers did not obtain in 1586, because the King grants Liberty to Flocks to oppose in the Election of Bishops: The People had not a Negative, tho' unanimous in their Opposition; they had only a Power of objecting against the Moral Qualifications of the Man presented; and the Act 1592 astricts the Presbytery to the Presentee: And I am glad he owns this to be a free Choice; for then he gives up with all his lamentable Instances, even to the Case of *Hutton*."

*Ans.* 1. The King thinks, the Flock among whom the Bishop is to labour should have Place to oppose, as in the Election of other Ministers. Here it is supposed, That in those Days Elections did obtain. 2. As for the Act 1592, its astricting the Presbytery to the Presentee; that is, still allowing the Congregation to oppose. 3. That this opposing was something else than an objecting against the Moral Character of the Man presented, I make out from the following Considerations; (1.) From the *Second Book of Discipline*, Chap. 3. Sect. 9. and Chap. 12. Sect. 9. According to which, neither by the Prince or



any other Person, is any to be intruded without lawful Election into any Office of the Kirk, or contrary to the Will of the Congregation. And, according to *Spotswood*, tho' the Commissioners of the Estates, who conferred with the Commissioners of the Kirk, did not agree to sundry Articles in the Book of Policy, yet they agreed to these. Again, the Assembly 1562, Sess. 3. inhibit all and sundry Persons serving in the Ministry, who have not been presented by the People. 2. Altho' Patronages did subsist in 1592, and to 1649, yet we may see what Opposing was allowed to the Flocks by the King and Parliament themselves. In the Assembly holden at *Perth* 1597, the King himself proposes that Ministers be not chosen without Consent of the most Part of their Flocks. And, by the 7, 8, and 9. Acts of the 2d Parliament of King *Charles I.* Kirks are to be planted with the Consent of Parishes, and without Prejudice of the Interest of Parishes, according to the Acts and Practice of the Kirk since the Reformation; and Churches are to be planted upon the Suit and Calling of the Congregation. 3. That their Opposing was something else than objecting against the Minister's Life and Doctrine, I am supported in by the Authority of that learned and pious Member of the *Westminster* Assembly, Mr. *George Gillespie* Minister at *Edinburgh*, in his *Miscellany Questions*, p. 28. "Tho' nothing be objected against the Man's Doctrine and Life, yet if the People desire another better, or as well qualified, by whom they find themselves more edified than by the other, that is a Reason sufficient, and is allowed by *Daneus*, 1 Tim. 5. 22. and by the *First Book of Discipline* in the fourth Head." So that, 4. To conclude this, the Instance of *Hutton*, and others, will not be found to consist with the Freedom of Election, or be paralleled by former Practices in this Church: For, even when Presentations obtained, Elections were maintained; and by no Law of the State, or Decision of the Church, were any to be thrust in on Congregations against their Inclinations, which is so much practised now, when no better Reason can be given than alledged Expediency for settling a Presentee, whose *jus questum*, as the Lawiers talk, may not be touched.

In the same 45th Page the *Reconsiderer* begins the Vindication of his fifth Argument, in which Page he hath nothing but what hath been already considered, unless it be a charging his Adversary as libelling Church and State; a Charge not worthy an Answer. If there have been of late corrupt Decisions in the Church, by which the Liberty of its Members in the Election of Pastors hath been wronged, it were fit these were corrected, and that there were no more any such: But the *Reconsiderer* needs not go further back than 1715, to find an Assembly of the *Considerer's* Principles; they declare, That, by Patronages, this Church was altered in a very important Point: This the *Reconsiderer* thought convenient to take no Notice of. It had been a Pity there was not such a modern Casuist Member of that Assembly, to have instructed them in their Duty to their Sovereign, and to have let them know, that such Expressions were a Libelling of the State. The *Considerer* resolves to mind his Promise never to turn *Jacobite*, and thinks it will give no Suspicion, nor infer a libelling the State, that his Respects are not so great for the Time in which Patronages were restored, at which Time also the *Hanover* Succession was in the utmost Hazard. And I hope the *Reconsiderer* will find it convenient not to discover such a *Jacobitish* Disposition, as to commend a Time that endangered both Church and State. If you will not retract such a Charge against me, you will no Doubt have a Title to the *Jacobites* Caresses, but will never fix the least Impression on me as a Libeller of the State, which hath been more favourable to us these seventeen Years back, than what within these few Years past we have been to ourselves.

In the 46th and 47th Pages, the *Reconsiderer* goes on to except against what the *Considerer* had said on the *Case-Writer's* fifth Argument: Excepting some lame and interrupted Quotations, he hath scarcely any Thing but what he refers to by the Particulars in the 47th Page, in which he says,

“ 1. That the Assembly 1596 looked upon Presentations as a Civil Right, distinct from, and capable of being superadded to, their spiritual Rights.”

*Ans.* 1. I wish the *Reconsiderer* had told us what Sort of Presentations he means ; if it be the Deed of a Lay-Man, he hath not produced one Syllable proving the Assembly's countenancing any such Thing : But, 2. If he mean a Presbytery's presenting or calling *jure devoluto*, he should have limited the Assertion to this Point precisely, and not have imposed such a Mistake as if the Assembly 1596 had been for Presentations in general. But, confining the Matter to the Presbytery's Presentation or Call, the *Considerer* will yet confidently averr, that from the Presentation of the Patron to the Deed of the Presbytery, or from the Presentation of the Presbytery to the Right and Title of the Patron, the Consequence is not good. 3. The Presbytery's presenting or calling *jure devoluto*, is a Spiritual and Ecclesiastical Right, as having the Care of the Church of God, which Right they ought to exert when Congregations incapacitate themselves one Way or another : And I can conceive no Civil Right superadded to this spiritual and intrinsical Right, unless it be that the Magistrate, in vertue of his Power *circa sacra*, by his Laws, ratify and confirm the Church's spiritual and intrinsick Right. 4. The *Reconsiderer*, p. 60. and 61. having excluded the Church from Civil Ministrations, he should not have fixed upon them an Acting by a Civil Right in their *jure devoluto* Calls.

2. The *Reconsiderer* says, " That presenting to the Office, as our Author calls it, is a distinct Thing from presenting to the Benefice, since some of these to be presented were actually serving at the Cures ; only the Laick Patron had allowed the Church to present to the Office, while he forgot to present to the Benefice : But it seems these Patrons had been of our Author's Mind, that, having a natural Right already, they wanted no more."

*Ans.* 1. I must confess this Particular is not so intelligible, nor can I find what it is in the *Right considered* he is opposing, unless it be what is in the 56 Page, That Presbyteries have the only proper Right to present to Office and Benefice, &c. And if this be it, I allow his dubious Speech, and what I have said on that Head, to face one another.

2. Tho' Ministers serving at other Churches, have not a Title

Title to the Stipend of a different Church ; yet, upon their being called, and their Relation fixed by a Presbytery to that other Church, that Deed of the Presbytery gives them a Title to the Emoluments of that Church.

3. He says, " That the Assembly 1596 did not think the *jus devolutum* a mere Pretence ; and tho' a Civil Affair, that gave Access to Pursuit in Law, they had Freedom to use it."

*Ans.* 1. No other Reply to this is needful, than to transcribe a Part of what you have in the 56th and 57th Pages of the *Right considered*, viz. " We find, in the 4th Chapter of the *First Book of Discipline*, That this Church claimed a *jus devolutum* before there were any Acts of Parliament appointing or allowing of any such Thing." That is, if Parishes should be negligent in a certain Space of calling a Minister, then they who had the Inspection of the Church were to look out a fit Man for them. Here we had no Business with the Lay-Patron, who hath no Right of Inspection over the Church committed to him. This Particular the *Reconsiderer* thought fit not to remark upon. Then adds the *Considerer*, When Parishes are altogether negligent, or after the Expiration of a competent Time allowed them by the Church for calling Ministers, do in any proper Way signify their Inclinations, Presbyteries, in vertue of an intrinsecal Right, do present to Office and Benefice. But, 2. The *Considerer* did not say, that the *jus devolutum* was in itself a Pretence, but, that the Civil Law could not pretend to give it, for the Church had that Right and Power without any Grant of Law. The Law indeed ratifies and confirms their Right, but doth not give it : For, if the Law gave the Right, then it should follow, that the Church had no Title at any Time to settle a Minister ; not within the six Months after the Vacancy, unless the Lay-Patron concur ; nor after the Expiration of these Months, unless the Civil Law grant them a Right for that End. 3. What will the *Reconsiderer* say, if, on this Head, I should get in the Church of England to my Assistance ? make only the Change from the Bishop to the Presbytery, and they will be found to speak the same Thing. Grey, in his System of Eng-



*11th* Ecclesiastical Law, from p. 254th, and forward, says,  
 “ That the Right of Patronage is a spiritual Trust,  
 “ vested in the Hands of Patrons by the Consent of the  
 “ Bishops, who have this Right only for so many Months;  
 “ after the Elapse of these Months, the Right returns  
 “ to its first Owners: ” And no Laws concerning this  
 devolved Right can be otherwise understood, as ratify-  
 ing that Right and Power which is inherent in the  
 Church. 4. As to Pursuit in Law upon the *jure devo-*  
*luto* Act, no more is needful for a Minister, in Pursuit of  
 his Stipend, than an Extract of his Admission: And, if  
 the Church should not admit the Presentee, I ask the  
*Reconsiderer*, if the Presentee would in Law obtain the  
 Stipend of the Parish to which he was presented, tho’ not  
 admitted?

4. The *Reconsiderer* says, “ That the Assembly 1596  
 “ did not think it sinful to accept of a Presentation.”

*Ans.* That which we are now upon is a Presentation,  
 or Call from a Presbytery, acting in Vertue of a Power  
 and Right from Christ the Head of the Church; a Power  
 not derived from, but confirmed by, the Civil Law: This  
 they thought not unlawful to accept, but not one such  
 Word concerning Presentations from them who have no  
 Ecclesiastical Power. So the *Case-writer’s* Corolaries,  
 and the Decisions of this Assembly 1596, are not pa-  
 rallel.

5. He next tells us, “ That the Assembly 1596, judged  
 “ it competent for them to make Constitutions with re-  
 “ spect to Patronages, which is a Power our Author de-  
 “ nies to the Church.”

*Ans.* 1. I wish the *Reconsiderer* had told us, what  
 were these Constitutions which that Assembly 1596 made  
 concerning Patronages; Was it only, That where Pres-  
 byteries presented or called *jure devoluto*, that they were  
 to deal with the Persons thus called or presented to ac-  
 cept? If this be all, as surely it is, I have already shown,  
 that this is to no Purpose in our present Debate. But, 2.  
 If the *Reconsiderer’s* Story were true, That this Church  
 was fond of the Act of Parliament 1592, establishing  
 Patronages, what Constitutions remained for them to  
 make? Unless it had been either to approve of Patrona-

ges, or to lay Candidates for the Ministry under Restraints with respect to them? The First would have said much for the *Reconsiderer*, but this he hath not been able to make out. 3. The *Considerer*, in the 38th Page of the *Right*, to which the *Reconsiderer* refers, hath said, That the Church-Limitations of Patronages are of no Avail, unless these be ratified by the State; but this will not infer, that ever it was his Opinion, that the Church cannot make any Constitutions with respect to Patronages. The Church can make Constitutions binding upon its own Members, but not binding upon the Patron, unless the Laws establishing his Right bind him, or he be willing to submit to the Ecclesiastick Constitutions. I wish the Church would enact, That no Presentations from Patrons be accepted: They have abundant Encouragement for this in the Act of Parliament 1719.

6. He says, " The Assembly 1596 gave as active Countenance to Patronages, as at this Day is allowed them by any Church-Judicatory in Scotland."

*Ans<sup>w</sup>.* I should have said with him, if he had been able to give Instance, or Instances, of their thrusting in a Presentee upon a Congregation against their Will, which is now frequently done, and of which the *Reconsiderer* cannot be ignorant; but he hath failed, and will fail in this: Therefore, I wish he would cease from imposing on any, such Mistakes.

*Lastly*, He is so far from clearing up the confused Medley which the *Considerer* found in the Close of his fifth Argument, as that he hath said nothing of the Necessity of a Presentation from a Lay patron; and from the Presbytery's Presentation, or *jure devoluto* Call to that of the Patron, the Consequence is not good.

But, lest the *Reconsiderer* think, that I have omitted any Thing that is material, I may not pass over what he says in his 46 p. " That the Presbytery's devolved Power is as Civil an Affair, as the Designation of Man-  
ses, Grass, Glebe, &c."

*Ans<sup>w</sup>.* 1. This Designation is no Presentation given a Man to be a Possessor. 2. The Presbytery are the Persons who inspect this Affair, but it is immediately done by Lay-men appointed for that End. 3. If their Decreet,  
upon

upon the Lay-mens Report, give the Incumbent a legal Title to these ; Why not, with a better Right, their Act of Admission give the Admitted a Title to the Stipend, without the Necessity of a Patron's Presentation ? 4. It is the Magistrate's Duty, in vertue of his Power *circa sacra*, to provide Ministers with Livings and convenient Dwellings ; and it is the Church's Duty to see, that there be no Defect or Dilapidation as to the Living or Dwelling.

Page 48. He says, " He thinks it not necessary to follow the *Considerer* in his distinct Remarks upon the fifth Argument, which, he says, he is not able to comprehend, and which do not in the least shake the Argument."

Ans. 1. If he be not in Case to comprehend the Remarks, how is he sure but, to one who will comprehend and understand them, they may shake his Argument ? 2. I will condescend on some Particulars in the Remarks, not incomprehensible, however unanswerable ; but the *Reconsiderer*, perhaps, was in the Right to pass them over. P. 56 of the *Right*, the *Considerer* says, " That, in the first Chapter of the first Book of Discipline, this Church claimed a *jus devolutum*, before there was any Act of Parliament appointing any such Thing. From this it will follow, That the *jus devolutum* did not originally flow from the Civil Law. And Page 57. If Patron and Presbytery be on a Level, as to the presenting of fit Men, then the Lay-patron should never present, till the Parish decline to make a Choice ; and some competent Time should be allowed the Parish, for setting about this Choice, by the Lay-patron as well as by the Presbytery : But no such Thing is authorized either by Law or Practice. And p. 58. That Presentations by the Lay-patron are not necessary to make the legal Provision effectual ; nor are Presbyterian Presentations, under the formal Notion of a Presentation, needful for that End : The Minister's Admission warrants his uplifting of the Stipend. And p. 59. That the *jus devolutum*, which many make so much Noise about, did obtain from 1560 to 1567, from 1649 to 1662, from 1690 to

" 1712 ; in which Periods Presbyteries acted freely, establishing a Pastoral Relation, either within or without the six Months, as they found Parishes best disposed, and ready to elect a Minister ; and so they concurred with them in providing them with fit Men. In these Periods, Presbyteries never called *jure devoluto*, but when Parishes neglected to call in due Time." If the *Reconsiderer* had attempted an Answer to these Things, he would not have found them so unintelligible, however unanswerable.

In the same *Page*, he says, " He hath gained two Points, if it be true what the *Considerer* says, That the Extract of a Minister's Admission will, without a Presentation, obtain him Diligence for his Stipend : Either, 1. That Patronages are not so rigorous now as in 1596. Or, 2. Whatever Right, in the *Considerer's* Opinion, Patrons have to tyrannize over us, yet they do not exercise it *pleno jure* ; which shews that our Government is milder, and consequently, that our Grievances are not greater, tho' the Groans of some are louder."

*Ans. 1.* A Minister's obtaining Diligence for his Stipend, upon an Extract of his Act of Admission, will never prove that Patronages are less rigorously exercised now as in 1596, because the same would have obtained then as now : According to the Act of Parliament 1567, tho' a Patron appealed to the highest Judicatory, at last he behoved to rest in their Decision. 2. According to the *Reconsiderer's* Sense of *pleno jure*, I never said, that the Patron was warranted by any Law ; and, whatever be his Notion of the Mildness of the Laws now establishing Patronages, in respect of these in 1596, he hath not been able to shew me any Law, from 1567 to 1596, so establishing the Patron's Title, as to repeal the Congregation's Right to elect their Minister, as doth the Act 10mo *Annæ* : So that the Grievances being greater, the Groans should be louder, tho', it appears, the *Reconsiderer* is disposed to make a Jest of these.



## CHAP. III.

*Containing Answers to the Reconsiderer's Remarks on the Answers given to Objections by the Author of the Right Considered : In which the active Countenance to Patronages, which the Reconsiderer would fix on the Assembly 1642, is fully viewed, and set in its due Light. The Title which Ministers, duly admitted to Churches, have to the Endowment of that Church, and the Administration of the Magistrate in that Affair, are enquired into : In which, an Account of several of the Reconsiderer's Mistakes on these Heads. As also, a Refutation, even from the Ecclesiastical Law of England, of what the Reconsiderer, and others of our new-fashioned Disputants, say concerning the Patronage-Right, as if it were a Civil Trust, and their Presentations needful to secure a Minister's Title to his Stipend.*

Page 48. **T**HE Reconsiderer proceeds with his usual Invectives and Raileries, "As if the Considerer's Wisdom and Judgment had failed him, in taking any Notice of the Conduct of the Assembly 1642, which, he says, *speaks fully the Sense of the Case.*"

Before I enter upon his Remarks, it may be observed, That, in his Accounts of that Assembly their lifting Persons willing to accept of Presentation, he hath omitted so very material an Article in the Appointment, that one may see what he is driving at, and what he would have

have that Assembly defending. The Clause he hath omitted is, " That the Presbytery shall make up the List " with the Consent of most or best Part of the Congregation." But, no doubt, such a zealous Advancer of the Patrons Power, will look on a Clause of this Kind as a Circumstance.

What Justice or Equity there is in what he says, *p.* 49. " That the *Considerer* is so good as to repel his own Defences," I will afterwards have Occasion to shew.

The *Considerer*, *p.* 60. of the *Right*, says, 1. That, tho' the Church was then fond of such a Limitation of the Patronage-right, it will not thence follow, that they did not still esteem Patronages to be a Grievance, when Patrons were obliged to present one of the List given them by Church-judicatories; this was a Limitation, that at present we have not the like. 2. This List was not only made up by Presbyteries, but also with the Consent of the most and best Part of the vacant Congregation; and, altho' the Patron pretended a Right to present, yet, according to this Way, it was a subsequent supervenient Deed to that of the Church. 3. When Patronages were imposed on the Church nill they will they, it was no Homologation of that Right to secure the best Way they could the Church's Right.

Upon these the *Reconsiderer* remarks, 1. *That he cannot understand any Thing liker an Homologation of a Right, however usurped, than to accept of a Charter from the Usurper.*

*Answ.* In the making up of the List with the Consent of the Congregation, of which One was to be presented, there was no Accepting of a Charter from the Usurper; the Church maintained and retained their Right to elect their Ministers, tho' by the Patron's Title they were miserably involved in the Exercise of that Right: Therefore, rather than lose their remaining Right altogether, they purpose a List, of which One may be presented; at the same Time as fully perswaded of the Unjustness of the Patron's Title, as a Person is of the Highwayman's Right to his Purse, which yet he himself will give him, that his Life may be saved.

2. He alledges, *The hard Word Homologation to be use-*

*useless in the Dispute with Erastian Presbyterians, for they never plead for such a Thing.*

*Ans. The Reconsiderer, p. 14. and in sundry other Places, hath so pleaded the Conveniency of Presentation as an instituted Right, and the Lawfulness of accepting them, tho' he knows that the not accepting them would render them useless, that I wonder how he will refuse the charged Homologation; and he so often inveighs against the calling Patronages unlawful in themselves, or that a limited Patronage is in some, or in a lesser Degree sinful; that he cannot refuse this Homologation at any cheaper Rate, as the contradicting himself; and therefore, till he be reconciled with himself, no other Answer needs be given.*

3. He alledges, *That the Considerer hath weakned his Reasoning, by stating the Question, Whether a Right, in itself unlawful, can be so limited, as to be lawfully exercised? And he cannot understand how the grave Assembly in 1642 could safely countenance this unlawful Usurpation so far, as to send up a List of Candidates all willing to take the Right to their Stipends by vertue of an unlawful Authority.*

*Ans. 1. The Considerer is yet of Opinion, That a Thing in itself unlawful cannot be so limited, as to be lawfully exercised; and this is the same that his Friend Voet hath expressed in stronger Terms, viz. That the Patron's pretended Right is in itself unjust, unlawful, and hurtful to the Church; and that by the Help of no Distinctions or Limitations can it be so transformed, as that the Patron can with a good Conscience use the Right. The Limitations in 1642 were no Doubt very convenient, when they could not get altogether quit of the Grievance; and Voet says, That the Synod of Dort were fond of the Limitations which they obtained, when yet he hath left it as his Opinion, *Nulla distinctionum aut limitationum auxilio jus patronatus ita transformari possit, ut patronus eo bona conscientia possit uti.* 2. We are to distinguish between what the Patron might pretend to, and what the Church would grant. The Church in 1642 were not of the Reconsiderer's Principles, *That Presentations are an instituted Right, convenient to be added**

to the Minister's other Title, whatever the Patron might pretend to. If they had been so minded, it is strange they were so very soon changed, as in 1649 to be thankful for the Abolition of an instituted convenient Right.

3. There is no more in that Assembly's giving a List to the Patron, than this, That, seeing Patrons would present whether the Church would or not, therefore they take Care that none may be presented, but such as are found agreeable to the most or best Part of the Congregation.

4. He says, *That it will not do to call this passive Groaning under the Grievance, else the modern Presbyterians will escape, who are not known to give more active Countenance, than sending a blank Presentation to be filled up.*

*Ans. 1.* The Considerer dealt in no such Term as passive Groaning; and it is like the Reconsiderer's other Quotations to alledge it. *2.* I need not resume what I have said upon their Sending up of Lists agreeable to the Will of the Congregation, but only notice, that the Sentence which the Reconsiderer, with his usual Discretion, brings in p. 50. as pronounced by the judicious Author, will abide the Shock of his Reconsiderations, viz. *That if I allow, or actively countenance what is unlawful, I were allowing of Evil.* And this will neither condemn, nor leave in the Lurch, the Assembly 1642. A Man's Necessity may oblige him to borrow Money from an Usurer, but it will not follow that he allows or countenances the Usurer. The Application of this to 1642, and to our Time, is very obvious. *3.* What if the Assembly 1642 went some undue Lengths, which I am unwilling to think, nor can I, if the Matter be duly understood; yet, will it prove what the Case-writer and Reconsiderer alledges, That this Church gave as much, or more, Countenance to Patronages, when more rigorously exercised, and less limited, as now? I am sure it will not; for, by the Act 1642, the Patron was limited to one of these agreed to by the Congregation: But the Thing now complained of is, That Church-judicatories, under the Influence of Patrons and their Confederates, obtrude the Presentees on Congregations fore against their Will: One Instance



stance of this Kind from 1560 to 1649, the *Reconsiderer* hath not produced, against many I have given him these few Years back. I am unwilling to call what remains of his 50 p. a confused Medely, not inclining to raise his Passions, that are so much on Edge through his discreet *Reconsiderations*: But, as some Things are not so distinct, so, where they may be understood, I see not what they are to the Purpose: But, lest he should think that they are industriously overlook'd, I shall take Notice of the Particulars in his 50 and 51 Pages.

Because the *Considerer* had said, That the Patrons in 1642 were obliged to present one of the List agreed to by the Congregation, a Limitation of which we have not now the like, he quarrels, *That the Considerer had said the Church-limitations were of no Force, for this was a Church-limitation.*

*Ans.* 1. I have already said, That tho' Church-limitations of Patronages may and ought to bind Ministers; yet, excepting the Patron's Pleasure, he will not be bound by these, unless the Laws establishing his Right do lay him under Restraints. 2. The Limitation with respect to the List, was of Royal Authority; as you may see, *Ses. 7. August 3.* in the Assembly 1642. So that the *Reconsiderer* hath bewrayed Ignorance in that Affair, when he only says, That the Assembly had Ground to expect that Limitation; for the Act bears an Account of his Majesty's Declaration at *Whitehall*, granting that Limitation the *January* before that Assembly met.

2. Because the *Considerer* had said, That the Church of *Scotland*, in the Book of Policy, distinguish not between Patronages *pleno jure*, and a limited Patronage, but declare the very presenting to Benefices having *curam animarum* to be contrary to God's Word; The *Reconsiderer* infers, *That the Assembly 1642 sent up a List to the King, one of which was to be presented, contrary to God's Word, in Spite of the Limitations craved, or consented to.*

*Ans.* 1. The *Reconsiderer* hath not offered to disprove the Doctrine of the Book of Policy, in which the presenting to Benefices having *curam animarum* is condemned; if the Assembly 1642, in the Matter of the List

List, acted contrary to that Doctrine, let them not be defended ; for it is a true Protestant Principle, That General Councils have erred, and may err. But, 2. Altho' Presentations to Benefices having *curam animarum* have no Warrant in the Word of God, but are contrary thereto, the Church, in the Matter of the List, cannot be said to desire a Thing contrary to the Word of God ; they only desire, that, seeing the Patron will exercise a Right that hath no Foundation in the Word of God, he may not do it to the Prejudice of Christian Rights, but that the Inclination of Congregations may be regarded.

Because the *Considerer* had said, *p. 60. of the Right*, That the Patrons in 1642, their presenting one of the Church's List, was a subsequent and supervenient Deed to that of the Church ; the *Reconsiderer* pretends to repel this by the *Considerer's* own Words, *p. 61. of the Right, viz.* That tho' Patrons should be confined to the Church's free Election, it obligeth Parishes, to the Prejudice of their sacred Rights, to depend on an extrinsick and usurped Power for completing of the Call ; as if it were defective without the Patron : And that the Act of the Church in that Case may be termed a supervenient Consent to the Election made by the Patron. Says the *Reconsiderer*, *This admits of a close Application to Assembly 1642, by whose Direction the Presbytery send a List of Six, out of which the Patron elects One, and leaves the Church to do her Duty by subsequent Consent, Trial and Admission. And thus our Advocate hath betrayed the Cause of his Clients, the Assembly 1642.*

*Ans.* What the *Considerer* had said upon the Lists in 1642, That the presenting One of these, was a subsequent and supervenient Deed to that of the Church ; was sufficient to prove, that Patronages at that Time were more limited than now, when Persons are presented and obtruded upon Congregations against their Will. 2. What the *Considerer* adds, *p. 61. of the Right, viz.* That, tho' the Patron should present the Man duly elected, it obliges the Church, to the Prejudice of their sacred Rights, to depend on an extrinsick and usurped Power for completing the Call, as if it were defective without the Patron, is not contradictory to what he had said in the 60 *p.* these

Pages not being *ad idem*. In *p.* 60, he said, That in 1642 the Patrons were bound to present One that was first found agreeable to the Congregation; this was sufficient to prove what he intended in that Place, *viz.* That Patronages are more rigorously exercised now as then, when yet he might add, as in *p.* 61. That tho' they should present with the Consent of the Congregation, this was to make the Minister duly elected, his Title to depend upon a Power that hath no Foundation in the Word of God. Now, whether the *Considerer* hath betrayed the Cause of his Clients or not, he owns it is his Opinion, and I am sure of 1642, that the Church should have no Dependence upon the Patron: And he will still say, That Patronages are more grievous now than in 1642. The Patron then was bound to the Church's Choice, but now it is thought convenient to settle the Presentee contrary to the Will of the Congregation. Surely the Times are changed, and, without any Prophetick Inspiration, it may cast up if such would have been the Practice in 1642.

*Page 52.* The *Reconsiderer* tells us a shifting Story, *viz.* *That there never was a Law obliging the Church, nill they will they, to accept of a Presentation; and it was as possible then as now, to make void Presentations by not accepting them.*

*Answ. 1.* The *Considerer* never said that there was a Law obliging the Church, nill they will they, to accept of Presentations; he only said that Patronages are imposed on the Church, nill they will they, two very different Things. 2. Till the Year 1719, the Laws concerning Patronages never required the Acceptance of a Presentation, to give it its legal Force. 3. Because there is an Equivocation in what the *Reconsiderer* says, *That in 1642 it was as possible as now, to make void Presentations by not accepting;* it may be needful in a Sentence to clear this Matter. What therefore is truly to be understood of voiding a Presentation by not accepting, is this, That by the Law, without an Acceptance, the Patron cannot pursue his Presentation, or in Vertue thereof pretend any Title to the Presentee; But, before the Year 1719, he could have claimed the Presentee, tho' there had been no Acceptance. So that the *Reconsiderer's* equivocal Reasoning

ning is detected and refused, if we distinguish between what makes a Presentation a legal Deed, and what is needful for obtaining the Settlement of the Presentee: In 1642, and before the Year 1719, if a Person presented consented not to be settled at a Church, the Patron's Presentation was made void as to the Settlement, but not as to the Validity of the Presentation; But now we can make void and invalid the Presentation, so as the Patron hath no legal Title, notwithstanding of his Presentation, to claim the Presentee; and that is, by not granting an Acceptance.

Page 52. The *Reconsiderer* starts an Objection, which he may believe should never have been moved by me, viz. *That in 1642 they were under a Necessity of accepting a Presentation, or else they could have no Right to a legal Maintenance.* But who would commit a Sin for a Stipend?

*Ans.* I perfectly agree with him, that we should not commit Sin for a Stipend; but must differ, if he think that in 1642 they were obliged to accept of a Presentation, or else to have no Stipend: The Church at that Time, to prevent the imposing on Congregations Persons that would not be agreeable to them, sent Lists of Persons willing to settle in the Congregations, and who were agreeable unto them; which is all that is in the Acceptances of that Time. They were sure, that, upon their being duly admitted, they had just Right and Title to pursue for their Stipends.

Pages 52 and 53, The *Reconsiderer* proposes a Question, *Whether, if the King had made the Pope's Bull as necessary as a Presentation, the Assembly 1642 would have submitted to it, after the same Manner, be it actively or passively? If they would not have submitted to such Terms of enjoying their Benefices, then it will follow,* 1. *That the same Method whereby they could escape the Force of a Bull, would have saved them from the Violence of a Presentation.* 2. *That something is more sinful and unlawful than Presentations.* And I cannot think that they would have accepted of any Right to their Benefices through the Pope's Hands, with all the Limitations the Conclave would have contrived; and no Protestant Assembly would have sent him a List of six Persons.



sons, one of whom might be confirmed in their legal Title to their Benefice by his Holiness's Provision. Accordingly the Church of France pronounced them unworthy of Communion, that held Benefices by Papal Provisions; and the second Council of Paris, Anno 1565, direct the Possessors of Benefices, rather to quit them than to relieve themselves by Popish Bulls and Provisions. And the Synod of Vitres 1583 determine thus, Gentlemen and others enjoying Right of Patronage, shall not be urged to forsake their just Title, only be admonished to imploy them to pious Uses.

*Ans.* 1. Neither to Patronages, nor to the Pope's Bull, is the Church to give active Countenance or Submission; for, whatever be the Difference between the one and the other in respect of Aggravations, they are unlawful in themselves: So that I think this is a direct Answer to his Question, if an active Submission is to be given. 2. I wonder how he asks the Question about passive Submission; for it is certain we must suffer under, be it the Deed of the Pope or the Patron, what we cannot help, nor are able to remove: But wherein we are able to shake off the Yoke of the one, or of the other, we should do it. 3. The Laws in 1642 have no such Thing in them as the Necessity of a Presentation, in order to a Title to the Benefice; so that the Question concerning them and the Pope's Bull is entirely needless. 4. If a Minister cannot have his Benefice without acknowledging the Pope's Bull, he ought not to have it; because the Pope's Bull obliges him to own his Supremacy, and binds him to the Idolatry and Superstition of Rome; but a Minister may consent to be settled in a Parish with the Will of the Congregation, tho' the usurping Patron should pretend to give him a Title to his Stipend. 5. I own, that a Pope's Bull is more grievous than a Presentation; yet both, as unlawful in themselves, are to be opposed. 6. The Church did send a List to the Patron of such as were agreeable to the Congregation, that they might prevent the Presentation of others not agreeable to the Congregation. 7. I do believe, the Church would not send a List to the Pope; but, if the Pope have only a Civil Title, confirmed by the Laws, to present to the Benefice, his Right should stand too much confirmed by the *Reconsiderer's* Principles. 8. If

the

the Pope claim no more as a Civil Title to confer the Benefice, let the *Reconsiderer* tell me, what is the Difference between a *Papist* on this Side the Sea, and a *Papist* on the other Side of the Sea, his giving a Presentation? For, if the *Popish* Patron take the Oaths to the Government, I do not find but he may present; and, whether he take the Oaths or not, the temporary Assignations of his Right to One legally qualified, makes the Presentation the same, as if it were given by the *Papist* himself. 9. As to the *Reconsiderer's* Quotations from the Conduct of the Reformed Church in *France*, I am willing to go there with him, being sure there will be nothing found in their Discipline favouring Patronages, more as Papal Bulls and Provisions. His first Reference is to their Discipline, *Chap. 14. Can. 3.* He hath left me to give their Words, which are as follows, "As for Benefices of which one may have an Advowsonage, whether by Presentation from the Lord of the Mannor, a Lay-patron, or by the Bishop's Gift, the Faithful are advised not to accept of them, if there be a tacite or expresse Condition of any Service to be performed to the Idol." Now, what is this to a Person's consenting to be settled in a Congregation, where no other Condition is required, even by the Patron himself, according to 1642, but the Consent of the Congregation? The *Reconsiderer* hath been partial in quoting the second Council of *Paris*, *Anno* 1665; for, if more full, it would have turned against him: Their Words are, *Chap. 4.* "That they who reserve to themselves Pensions out of Benefices, which they enjoy either by Provision from *Rome*, or by private Compact between them and these to whom they have resigned, or some other Way, be what it will; these shall be told, that they cannot use this Traffick without greatly offending God; because one of these Parties grounding this Reservation upon the *Pope's* Grants, and maintaining himself in it by his Authority, doth as much as in him lieth own his Supremacy." Now, that the *Reconsiderer* may not think all this making for him, it is added in the same Chapter, "But as for them who retaining the Name and Title of their Benefices, together with their Fruits and Profits, if they can in

" their Enjoyment of them, use them piously, abstaining  
 " from all superstitions, nor participate in Idolatries, ad-  
 " hering to them, these be the more excusable, &c." If  
 we read the Conclusion of the said Chapter, we will find,  
 " That beneficed Persons were not admitted to the  
 " Lord's Table, unless they imployed the Revenues of  
 " of their Benefices to holy Uses, whereunto they were  
 " at first designed, viz. the Relieving the Poor, the Main-  
 " tenance of God's holy Worship, &c." As to the *Re-*  
*considerer's* Quotation from the Synod of *Vitres*, Anno  
 1583, I find no such Passage in the Decrees of that Synod,  
 and therefore must forbear an Answer till he give an exact  
 Direction. Upon his Margine he quotes the second Sy-  
 nod of *Rockelle*, Chap. 3. Art. 34. I shall give the Words,  
 viz. " All these who by unlawful Means, as by Papal  
 " Bulls, or ready Money, shall purchase or hold Bene-  
 " fices, and such as cause Idolatry to be upheld and main-  
 " tained, either directly or indirectly, shall be excluded  
 " Communion at the Lord's Table." Now, what is  
 this against a Man's Willingness to accept of a Settle-  
 ment with the Consent of the Congregation? I find se-  
 veral Things in some of these *French* Synods, in my Opi-  
 nion, against the *Reconsiderer*, as the 4th Synod of *Lyons*,  
 Anno 1563, Chap. 16. Art. 4. " Such as hold Church-  
 " lands, provided they do not pollute themselves in any  
 " Manner with Idolatry, and imploy these Lands and  
 " Goods for holy and pious Uses, they are to enjoy them,  
 " &c." And the first Synod of *Rockelle*, Anno 1571,  
 Chap. 8. Art. 5. declare, That beneficed Persons retain-  
 " ing the Name and Title of their Benefices, and those  
 " also who dable with Idolatry in their said Benefices, shall  
 " not be admitted to the Lord's Table; but such as hold  
 " those Benefices by the King's Gift, and make a true  
 " and publick Profession of the Reformed Religion, may  
 " be received unto the Lord's Supper; only they shall  
 " be exhorted to apply the yearly Profits of those their  
 " Benefices to pious Uses."

As to Presentations and Tithes, the common Fund of  
 Ministers Maintenance, I find very much against the *Re-*  
*considerer* in the Synod of *Figeac*, Chap. 3. Art. 14. " In  
 " the

“ the Case of Benefices to which there is a Right of Patronage by Presentation from the Lord of the Mannor, or by the Interposul of the Bishop of the Diocese, the Faithful must be advised, not in the least to retain them, tho’ they were freely given them without any Condition expresse or implicate of Service unto the Idol : And, *Art. 24.* Whereas diverse Persons professing the Reformed Religion, do by their own Authority and Right possess Tithes, which formerly were appropriated unto Church-men in holy Orders, they shall be advised to imploy them wholly on pious Uses.” From all which we may see the Strength of the *Reconsiderer’s* Reasoning from *Popish* Bulls, and the Authority of the Reformed Synods in *France*.

*Page 53.* The *Reconsiderer* proposes a Syllogism, as if it were the *Considerer’s* Doctrine, viz. “ The Assembly 1642 judged Presentations might be accepted, while there was no Civil Law to nullify them ; But to accept of a Presentation is every Way sinful and unlawful : Therefore this Assembly thought an unlawful Thing might be done, while there was no Civil Law whereby they might nullify the unlawful Right, or escape the Sin.”

*Ans. 1.* Whoever reads the 60 and 61 Pages of the *Right*, will see this Syllogism to be a gross Perversion of the *Considerer’s* Words. That which the Assembly judged lawful was, that they should preserve the Congregation’s Right as far as the Hardship of that Time would admit of : And the Acceptances mentioned, are no more as this, That the Church should not make up a List of any who might not submit to be settled in the Charge, lest the Patron, not obtaining such, might not any further regard the Parish’s Inclination. 1. In his Minor he hath not given the *Considerer’s* Words fully, which you have, *p. 60* of the *Right*, That, seeing Presentations have no Validity in Law unless they be accepted, it is not lawful to accept of them. The Church in 1642 did all they could to restrain the Patron’s Power, and to preserve the Congregation’s Right : Acceptances and Decisions now support and confirm the Patron’s Title, and invade the Congregation’s Right. This is a short State of the Difference



between 1642 and now, let the *Reconsiderer* pervert and sophisticate as much as he pleases. 3. So far were the grave Fathers in 1642 from sheltering themselves under the Principles of new-fashioned Presbyterians, in judging it lawful to do a Deed which gave the Presentation a legal Force, when it was in their Power to have made it void in Law, that they rested not till they got the Patron's Title abolished by an Act of Parliament in 1649.

Page 54. The *Reconsiderer*, with his usual Unfairness, quotes a Part of the *Right* in p. 34. leaving the rest behind, viz. Is not this the Thing we complain of, that Assemblies, and especially Commissions, are supporting Patronages, Patrons are countenanced, Presentations are supported by Church judicatories? to which he adds, "Had he lived in 1642, would he not have said, An hundred Years hence might not Posterity say, that the Church of *Scotland* were for Patronages, especially since the Dissent against that Assembly seems to have been buried as deep as in 1730? and so it must have been an ill-set Assembly." But the *Reconsiderer* hath not made a full Quotation, else he had not found a Parellel between 1642 and now. In 1642, the Patron is limited to such as are agreeable to the Congregation; but now, Persons presented are obtruded on Congregations: And I have shown from the Acts, *Charles I. Parl.* 12. none were to be thrust in on Congregations against their Will: And seeing that, 90 Years after the Assembly 1642, there are Ministers found pleading their Respects to Patronages, pretending at the same Time a Regard to the Congregation's Right, what shall Posterity an hundred Years hence judge of Decisions and Arguments for the Expediency of settling a Presentee against the Will of the Congregation?

In the same 54 p. he says, *That, for the Space of eighty nine Years, all the Ministry in Scotland accepted Presentations.*

Answer 1. The *Reconsiderer* hath not made it appear that for that Time they were all presented, so that they could not all accept of Presentations. 2. I would here distinguish between a Person's being presented, and his accepting of a Presentation. What tho' the Patron

did present, and the Presentee was settled in the Church ? it will not follow, that he accepted a Presentation. Might he not accept of, or comply with, a due Call, when at the same Time he might be presented by the Patron, which he could not hinder ? But this will not make an Acceptance. 3. If the *Reconsiderer* had proven, that for eighty nine Years the Church had no Liberty of Election, but that People entred into the Ministry by Presentations, he had then proven his alledged Acceptances ; but, as he hath not proved the one, so he hath succumbed in the Proof of the other. 4. After the *Considerer* himself was called, and the Transportation to his present Charge voted, the Patron gave in a Presentation ; a Way as easy as possibly could be in a Thing that ought not to be done : But, if any will dare to say, that he accepted the Presentation, he is able by unquestionable Evidence to prove the contrary ; so that, I say, from Presentations obtaining eighty nine Years after our Reformation, it will not follow, that all the Ministry in *Scotland* accepted Presentations more as they do it now, when there are so many Complainers that Patronages are so much supported and encouraged.

I have already spoken to that of Acceptances 1642, and therefore need make no Apology for the *Considerer's* Stile, That by Persons willing to accept, was only meant such as were not averse to settle in the vacant Parish, lest these listd with the Congregation's Consent declining, the Patron might present another without Regard to Parish or Presbytery : The Assembly 1642 took Care that Parishes should not be violented, but now the imposing of Presentees on Congregations is determined and defended and I shall leave it to any to judge, which of the Ways tend most to transmit to Posterity Latitudinarian Opinions concerning the Government and Discipline of the Church.

Page 55. He reckons the *Considerer* not very lucky in his Comments on Acts of Parliament or Assembly ; but, if he hath given a wrong Comment on the Act of Parliament 1719, the *Reconsiderer* should have given a better ; but he did right to shift this, because here he is pinched, and

and the *Considerer's* Reasonings on that Act about Acceptances will stand.

In the same Page he says, *That I hope none will infer in the Words of the Considerer (that the Assembly 1642 wanted nothing but a due Bounding of Patronages, since they never rested till they got them abolished) except such as lay down such odd Principles, as make the Church believe Patronages, however limited, are every Way sinful.*

*Ans.* The *Considerer* hath before observed, that our Author will not say, That Patronages are unlawful in themselves. Now, if this be true, or had been the Opinion of the Fathers in 1642, they would never have pushed the Abolition of Patronages, which they obtain'd in 1649. And, as to limited Patronages, I have once and again shown, that Patronages were more limited in 1642 as now, and yet they rested not till they got them abolished; which would have been unreasonable, considering how well they were limited, if they had not judged them unlawful in themselves; which the *Reconsiderer* will not admit of. So that his Inference concerning the *Erastianism* of 1642 will not hold. As to the Assembly 1730, who thrust in a Presentee against the Congregation's Will, I shall leave it to any to judge, if such a Thing, or any Thing like it, can be said of the Assembly 1642, who take Care that none be obtruded on Congregations. As to what he talks of the *Considerer's Erastianism*, when he shows wherein it doth appear, it shall be consider'd; till such Time, his blind Assertion deserves no more Regard.

The Reverend Mr. *Park*, in his excellent Treatise on Patronages, speaks so much the Mind of the *Considerer*, either as to passive Toleration, or as to Patronages in older or later Times, that I shall transcribe what he hath, p. 141. *And, tho' many pious and worthy Ministers have entred into the Ministry in this Method, yet it is to be considered, that many Things are to be tolerated in a troubled State of Church or Common-wealth, that are not to be approven. I shall not determine how far such a Toleration may be extended; but, sure I am, to argue from their Practice, at a Time when Entry to the Ministry*

nistry could not otherwise be had, to the Keeping up of such an Abuse when it may be taken away, is a Consequence beyond all rational Comprehension. Those Ministers ordinarily had the voluntary Consent of the Church, and People interess'd, which makes up the Substance of Election; and, if they had not this, I do not see how they could have been free of the Guilt of having run unsent.

But I am aware that the Reconsiderer will say, That Park and the Case-Writer agree; he hath not said, that Patronages are to be approv'd, but tolerated.

Ans<sup>r</sup>. 1. I have shown that the Case-Writer's Toleration is equivalent to an Approbation. He knows, that, if Presentations were not accepted, they would be void in Law; Yet, says he, it is lawful to accept of them: And he will not admit Patronages to be in themselves unlawful, and a limited Patronage to be in some, or a lesser Degree sinful; which Park doth esteem them to be, even tho' the Consent of the Church and People be had. 2. Park says, To argue from a Practice when Patronages could not be taken away, to the keeping up of the Abuse when it may be taken away, is a Consequence beyond all rational Comprehension. The Reconsiderer argues from the Deed of the Assembly 1642, in sending a List consented to by the Congregation, when otherwise they could preserve the Church's Right and Liberty to this, That Patronages are not unlawful in themselves, in some, or in a lesser Degree sinful; and it is neither sinful, scandalous, nor unlawful to accept of Presentations. When yet, if they were not accepted, according to the Act of Parliament 1719, they would on the Matter be taken away. 3. Park says, If Ministers had not the Consent of the Church and People interess'd, they were not free of the Guilt of running unsent: But it is inform'd, that the Reconsiderer thought fit, but very lately, to give his Suffrage for settling a Presentee at the West-kirk, where the Church and People are remarkably opposite. I thought fit to add this to the Quotation from Mr. Park, lest you should alledge he was on your Side; which if you imagine, answer these Particulars: But, perhaps, you look not on him as any of these Writers of Credit, who



who have a Title to the Regards of such a modern Author.

The *Reconsiderer* proceeds to another Objection mov'd and answered by the *Considerer*, viz. "That Patrons, in " in their Presenting, are bound to the Church's free " Election." Upon this he says, *I never imagin'd any but* *Erastians would answer this.*

Mr. *Reconsiderer*, I cannot think but you are sensible that now you are shifting the Question: Can you in less, or in more, from ought the *Considerer* hath said, or on any good Ground, infer that he is taking Part with *Erastians*, when he endeavours to show, that such an Objection is but a Shift, or that the Church is led into a Bargaining with the Patron? will it follow, that he is for dismissing free Elections? You might as well have said, That, when a Man is goes East, he is going West. But such poor Shifts you so often make, that I am wearied in considering them.

In the 56 Page, instead of answering the Particulars condescended upon in the 61 Page of the *Right*, he pretend, "An Unwillingness to meddle with these Considerations, because they repel the *Considerer's* Defences " for the Assembly 1642." And this is the Answer he also gives to the *Considerer's* Answers to another Objection, viz. "That the Accepters of Presentations, on Condition of a Call, do not hurt a free Election, or invade " the Rights of the Church."

*Ans. 1.* When I reviewed his Remarks on what I had said on 1642, I then took Notice of what he now alleges of my repelling my own Defences of that Assembly, and to that I refer. But, *2dly*, There are several Answers in the 61, 62, 65, and 66 Pages of the *Right*, that the *Reconsiderer* pretended not to meddle with, when he was upon the Assembly 1642; and therefore they stand intire unanswer'd: From which it is plain he inclined to shift an Answer to the Considerations on these Objections. There are only two or three flying Remarks in his 55, 56 and 57 Pages, which I shall take Notice of.

In p. 55. he says, *That the Considerer hath taught Patrons the full Extent of pleno jure.*

*Answer,*

*Answ. Mr. Reconsiderer*, I told you, that according to your Notion of *pleno jure*, that is, to present or confer a Benefice without Regard to the Church's Examination or Admission, this was to present *nullo jure*. And I cannot see how it can be inferred from any Thing I have said, that I have taught the Patron to present, in a Way contrary to the Laws establishing his Title; and, should he present in such a Way, he would soon discover the Ridiculousness of such an Attempt.

*Secondly*, In the 56 Page he makes another sturdy Threep, as if the *Considerer* had said, "That neither Church nor State Limitations are binding on the Patron."

*Answ. Mr. Reconsiderer*, you have been so much out of Humour in your Performance, that tho' you have, with a Civility peculiar to you, attacked my Veracity and Judgment, I incline no further to make Reprisals, as is needful for Self-defence. I said, *p. 62. of the Right*, *That no Law or Limitation would bind the Patron, but a Law made by them who gave him his Right; and this is the Civil Power, who have repealed any Law in favours of the Church's free Election.* Now, I shall leave it to others to determine, what Veracity or Judgment is in your Inference, as if I had said or insinuate, *That neither Church or State Limitations are binding on the Patron.*

Page 57. The *Reconsiderer* remarks, *That altho' the Author of the Right is for saving the Trouble of all conditional Clauses or Qualifications in Acceptances, yet he points out one as very convenient, viz. That however the Patron present to no more Stipend than is due by Law, yet, to avoid Simony and Sacrilege, the Presence should accept of a good deal more.*

*Answ.* The *Reconsiderer* hath been so wise, as not to direct to the Page where the *Considerer* said so, because truly he never said any such Thing; but this is not the first of his Impositions; perhaps he imagines he hath dealt so much in these, as to make a *jus quesitum* of it. 2. There needs no other Answer to refel his unjust Alledgance, than to transcribe the *Considerer's* Words as in Pages 66 and 67 of the *Right*, viz. "The common and  
" or-

“ ordinary Forms of Presentations involve the Acceptor in  
 “ a *Simoniacal* Paction, and an Accession to Sacrilege ;  
 “ for the Candidate is presented to so much Stipend, and  
 “ more. Now, I say, this is *Simoniacal*, because the  
 “ Presentation is thankfully accepted, tho’ more Stipend  
 “ might be had ; and it is sacrilegious, because it is an  
 “ Acknowledgment of the Patron’s Right to retain the  
 “ remaining Patrimony of the Church, which many of  
 “ them do very exprelly in their Presentations, by which  
 “ Bargain and Acceptance they cannot well seek their  
 “ small Benefices amended. It may not be impertinent  
 “ here to transcribe the Decree of a Popish Council at  
 “ Mentz. in Germany, Anno 1549. viz. *We perempto-*  
 “ *rily require, that no Prelate nor Official in his Name, to*  
 “ *whom the Right of Institution pertains, presume to give*  
 “ *any Institution in a Benefice, to which the Cure of Souls*  
 “ *is annexed, unless he first instruct, that the Rents of*  
 “ *of it are sufficient for his Sustentation, and that they*  
 “ *are left intire to him by the Patron, otherwise we de-*  
 “ *cern the Institution to be void and null ; And ordains*  
 “ *the Contraveeners of this wholesom Prohibition to be*  
 “ *ipso facto suspended from their Office. And we do*  
 “ *likewise prohibite any such Person who hath accepted*  
 “ *a Presentation, or such Conairions from the Patron,*  
 “ *to a Benefice either with or without Cure, to be insti-*  
 “ *tute therein.* How doth the Decree of this Popish  
 “ Council strike against our present Patrons, and Acce-  
 “ pters of Presentations ? Presentations now being to so  
 “ much Stipend, and no more ; tho’ the Benefice be so  
 “ far from being sufficient, that it is often below the *Mi-*  
 “ *nimum* of what the Law allows : And many Patrons  
 “ are so far from leaving the Tithes intire to the Intrant,  
 “ as a Fund of sufficient Maintenance, that they make  
 “ very special and particular Reservations of these to  
 “ themselves.” Now, because the *Considerer* had said,  
 That for ordinary Presentations are *Simoniacally* and sa-  
 crilegiously given and accepted, will it follow as his Opi-  
 nion, that Presentations should be accepted bearing a  
 great deal more Stipend ? It may be believed he is against  
 all these Acceptances whether for more or less Stipend.

In

in the same 57th Page, he proceeds to remark on the *Considerer's* Answers to a fourth Objection, which, as it stands, Page 62d of the *Right*, bears, *That Presentations are necessary, as the Law now stands, to give a Minister a legal Right to his Stipend; and that the Patron meddles with nothing that is Ecclesiastical, but leaves it to the Church to chuse, try and admit; he only presents to the Benefice, and gives the Minister a Right, that, according to the Laws of the Land, he may bruike his Benefice.* The *Reconsiderer* thinks not the Answers to this Objection worthy of an Answer: But, if it be true, that Presentations are not necessary as the Law now stands, he should either have disproved this, or give up with his beloved Doctrine of Acceptances. Again, the *Considerer* says, That the Patron meddles with what is Ecclesiastical, viz. The Nomination of the Person; and he expected not to be contradicted in this by the *Reconsiderer*, if he had remembred what he had said in the 44th Page, *That he does not receive Patronages, as they are defined to be a jus nominationis.* Lastly, It cannot be pretended, that the Patron meddles not with what is Ecclesiastical, if the Act 10mo *Annæ* restoring Patronages be duly remembred.

The *Reconsiderer* proceeds to take Notice of the Transcript from Mr. *Rutherford*, who it seems is none of his Authors of Credit; which I own is some Apology for his Treatment of the *Considerer*, when one of such distinguished Character for Piety and Learning both at home and abroad, hath so little of his Regard.

His Method of managing that Quotation is, "1. To remove some mistaken Principles. 2. To make some Observations for clearing the Truth." Page 58th, he tells us, *That one common Mistake arises from the Use of the Word Benefice, which is not proper to express the Stipend or Maintenance of a Gospel-Minister; and the great Men who have spoken most against Presentations to Benefices, had a different View of it from that of a local Stipend to a Minister.* And here he hath several Quotations, which extend to his 59th and 60th Pages, as if these learned Men only talked high against Presentations,



tations, whereby the Spiritual and temporal Part seemed to be confounded, as if both were conferred by Civil Authority ; “ Which, says he, is very different the Subject “ of our Modern Debates.”

*Ans.* 1. Whether you call a Minister's Provision, Stipend or Benefice, it will not alter the Case, as to the usurped Title of the Patron to nominate and present to the Church or Benefice. 2. I own myself straitned to take up the Scope of his Reasoning from his Distinction between Benefice and localled Stipend, unless he meant to distinguish between the Patron's Endowment of a Church, and the Magistrate's Allocation of a Stipend for a Parish-Minister. If he mean the first, call it Benefice, or what he will, all who have disputed against Patronages will tell him, that no Reservation of Right by the Patron upon his endowing any Church is a sufficient Foundation of his Right, nor ought the Church to give up to the Patron their sacred Right of looking out fit Men to labour among them for the Sake of any such Benefit. If by the Benefice he meant the Deed of the Magistrate, interposing his good Offices in favours of the Church, taking Care that every Parish be provided with a determined Stipend ; as little will this plead for the Patron's nominating and presenting to that Stipend or Benefice : For, if the Magistrate make a Presentation a necessary Condition of a Minister's Title to the Stipend provided and allocated by himself, it is the same Thing with the Patron's Reservation of a Power of nominating and presenting to his own Gift. So that, 3. The *Reconsiderer's* Quotation from *Voet*, Par. 1. Lib. 4. Tract. 3. *Ministri non nisi improprie fruuntur stipendiis per modum beneficii*, will do him as little Service for supporting his Distinction ; for *Voet* is shewing that Ministers Provisions are given them, not as a Compliment, but as a Debt : Let us hear his own Words, *Queritur, An ministri proprie fruuntur stipendiis per modum beneficii ? Resp. Neg. nisi quis beneficia appellet respectu ejus qui confert. Terminatur proprie beneficentia ejus ad Ecclesiam Dei. Quod ministrum non querit ille beneficium, sed officium : Ad quod sequitur, debitum stipendium, non beneficium proprie dictum.* From this it is plain, call a Minister's

Provision what you please, it is a proper Debt to which he hath a Right in vertue of his Office. 4. Seeing his Quotations from any of his Authors amount to this, That an Ecclesiastical Benefice is something annexed to a Spiritual Office, and due in vertue of the Spiritual Office, it must follow, that the Lay-Patron's pretending by his Presentation to give a Title to the Benefice, invades the Ecclesiastical Title, without which the Pastor can have no Right. 5. Call the Minister's Provision, Benefice or Stipend, whichever of them you please, I am willing to go with you to the learned Author of *Altare Damascenum*, whom you will find saying with me, that the Pastoral Office, or Relation to a Parish, is the Foundation of a Minister's Title to the Benefice or Stipend of that Parish. *Alt. Dam. p. 6. Qui enim libera praeunte Ecclesiae electione sacratur in ministerium, ipso facto haberet jus percipiendi fructus beneficium, siquidem beneficium, id est jus percipiendi temporalia datur, propter officium; id est, jus ministrandi spiritualia & temporalia spiritualibus annexa sunt.* What can be plainer on the Considerer's Side, or more opposite to the Reconsiderer, who will not allow a Minister a Right to an allocated Stipend but by a Presentation? And says, as *p. 14.* "That Presentations are an instituted Right, generally thought convenient to be superadded to the natural Title." 6. According to our Principles, a Minister hath no Title to the allocated Stipend of a Parish, unless he be called and admitted thereto; but, being called and admitted, his Right and Title to the allocated Stipend is good without a Presentation; and it is the Duty of the Magistrate to support and make effectual that Title, without imposing Conditions, such as the accepting of Presentations, inconsistent with our Principles. You may take another Scrape from *Alt. Dam. p. 6. Temporalia emolumenta spiritualibus rebus sunt annexa non antecedenter, (this is against Presentations) sed consequenter, id est, ut effectus causam consequens, & non e converso. Id est, maxime proprie illis connectuntur, & ad illa comparantur; sicut accessorium ad principale, &c. Beneficium igitur conferre est utrumque jus conferre.* A Minister, as I have before shown at large, cannot be admitted to a Parish to starve;

and, if the giving, or withholding the Benefice or Stipend be so much at the Discretion of the Patron, tho' he cannot hinder the Church from establishing a Pastoral Relation to a Parish, yet he can make it impracticable for the Person admitted to exercise his Office, by abstracting the Living.

Page 60. The *Reconsiderer* pretends to take Notice of another leading Error in the *Principles of the Considerer*, viz. That the Church only hath Right to dispose of, and administer the Temporalities, called her *Parri-mony*. And on this leading Error, says he, hang several other Suppositions; As, 1. That the Patron's Right is an usurped Encroachment on the Church, who alone gives an Ecclesiastical Right to Stipends or Benefices.

Answer, I wish the *Reconsiderer* would speak out broad, and own the Lawfulness of Patronages, which it would seem is his Principle, else he had not quarrelled the calling the Patron's Right an Encroachment on the Church. 2. Seeing the Minister's Right to his Stipend is Ecclesiastical, and that, according to *Didoclavius*, *The Temporality follows the Spirituality, as the Effect the Cause*; it is nothing else as what that learned Man hath said, That the Church gives an Ecclesiastical Right to the Benefice. But, 3. Left the *Reconsiderer* say, That the Right the Patron gives is only a Civil Right, I answer him from *Grey's System of English Ecclesiastical Law*, p. 254. He asks, "Is the Right of Patronage a temporal Inheritance?" *Ans.* It is a Trust vested in the "Hands of the Patron, by Consent of the Bishops, for "the Good of the Church and Religion. Nor does it follow either from the Patron's being now vested with "that Right in common Law, or from its being annexed "to a temporal Inheritance, that it is itself a temporal "Inheritance, or ought, legally speaking, to be considered otherwise as a spiritual Trust, a Trust of a spiritual Nature, and for spiritual Ends, resting in the same "Person to whom the temporal Inheritance belongs." So that, even from this *English* Account of Patronage, the Right ensuing upon the Presentation must be Spiritual: And, tho' I do not adopt their Opinion with respect to the Patron's Power, yet we see that a Minister's Title to his Stipend

Stipend is Spiritual and Ecclesiastical. According to Presbyterian Principles, that *beneficium sequitur officium*, they who invest Ministers with the Office, and fix his Relation to a Parish, intitle him to the Stipend of that Parish; and according to the Principles of the Church of *England*, the Minister's Title to his Stipend must be spiritual, because the Patron who presents him doth it in Vertue of a spiritual Trust.

The second Mistake he would suppose on the *Considerer*, he neither proves to be a Mistake, nor gives it cleanly in his own Words, which you have *p. 64* of the *Right*, "Altho' the Civil Magistrate may and ought to confirm a Minister's Right to his Stipend, yet he giveth not the Right; the Church gives the Right, the Magistrate supports and confirms the Right given; so that the Patron's usurped Power is higher than that of the Magistrate, the Patron claiming a Title to give the Right to the Benefice, &c." This I abide by, till the *Reconsiderer* show where the Mistake lies.

Neither is he so exact in giving the *Considerer's* third supposed Mistake, which you also have, *p. 64* of the *Right*, viz. "Altho' the Conveyance of Patronages have been from the Magistrate, yet this cannot prove their Power to be truly Civil, 1. Because no Conveyance or Confirmation of a Right can alter its Nature, which it still retains, come through what Hands it will. 2. No Law nor Magistrate can confer or confirm a Power that is materially and in itself unjust and unlawful; for it is not enough to make a Power materially just and lawful, that it be formally legal."

As to the *Reconsiderer's* fourth supposed Mistake, whether it be my Words or not, I assure him it is my Opinion, and I hope of many more, That, in a legally established Church, a Minister's Title to the Stipend of a Parish flows from his being duly admitted to the Pastoral Office in that Parish.

The fifth Mistake he supposes the *Considerer* to be in, is not altogether his Words, which you have, *p. 63.* of the *Right*; they are a Quotation from the learned *Rutherford*, viz. "If it be said, that the Patron may give a Minister a Civil Right before Men, that according to the



“ Laws of the Commonwealth he may legally bruik and  
 “ enjoy the Benefice, this is but a Shift ; for the Civil  
 “ Right before Men is essentially founded upon the Law  
 “ of God, &c.” But at the End of the *Reconsiderer's*  
 60 p. he proceeds to say what he calls the *Considerer's*  
 leading Principle, viz. “ That the Church only hath  
 “ Right to dispose of, and administer the Temporalities,  
 “ called her Patrimony.”

*Answer*, The *Reconsiderer*, endeavouring to bring  
 down a leading Principle, should, without any Altera-  
 tion, have given it in the *Considerer's* Words, as p. 17.  
 of the *Right*. By a Decree of the Scots Parliament  
 1567, *Tithes are acknowledged to be the Patrimony of*  
*the Church ; and, by our General Assemblies 1566 and 1570,*  
*the Patrimony of the Church is said to be ex jure Divino.*  
 Now, one would think, that what is declared by our  
 Laws Civil and Ecclesiastick to be the Church's Patri-  
 mony, the Church should be the Disposer of that Patri-  
 mony. And, p. 65. of the *Right*, *The Acceptor of a Pre-*  
*sentation hereby acknowledgeth the Patron's Title to dis-*  
*pose of the Benefice, which, being the Patrimony of the*  
*Church, is at the Church's Disposal.*

These are the Words, and this is the Principle of the  
*Considerer*, who will maintain, That a Minister, duly ele-  
 cted and admitted to the Pastoral Office in a Parish,  
 thereby acquires a Title to the Stipend ; and, without his  
 Admission by the Church, he hath no Right, call it Civil,  
 or call it Ecclesiastical, to the Stipend. And I think this is  
 a pretty sure Disposing of the Stipend, when they invest  
 the Pastor with the Title, and when without this Investi-  
 ture he hath no Title ; according to *Didaclevius*, p. 6.  
 The Benefice follows the Office, as the Cause the Effect.

If he want Authority for supporting the *Considerer's*  
 Principle, he shall also have it, 2d Book of Discipline,  
*Chap. 9. Sect. 5.* “ The Goods Ecclesiastical ought to  
 “ be collected and distributed by Deacons, as the Word  
 “ of God appoints, that they who bear Office in the  
 “ Church may be provided without Care and Solitude.  
 “ *Sect. 8.* This Office continued in the Deacons Hands,  
 “ who intromitted with the whole Goods of the Church,  
 “ till the Estate thereof was corrupted by *Antichrist*, as the  
 “ ancient

ancient Canons bear Witness. *Sect. 9.* The same Canons make mention of a fourfold Distribution of the Patrimony of the Church, one Part applied to the Pastors, &c." Of the very same Opinion is *Voet*, in his *Eccl. Pol. Par. 1. Lib. 4. Tract. 2. Cap. 4.* throughout, which would be tedious here to transcribe, but he that doubts let him dicker; only I shall notice, that he gives a negative Answer to that Question, *An princeps aut magistratus, ipso jure magistratus, & ex vi domini, superioritatis, ac jurisdictionis, possit omnia bona pastoralium curarum reliquaque ecclesiarum, pauperum, piarum domuum, diaconiarum, pro arbitrio sibi appropriare?*

I now proceed to what the *Reconsiderer* offers for disproving my Assertion, *That the Church only hath Right to dispose of her Patrimony*: Upon this he begins with *Voet* on Stipends, with whom the *Considerer* well agrees, That both Church and Magistrate ought to look to the Provisions of Pastors. And, tho' the Church hath so the disposing of Stipends, as to determine to whom they belong, to whom the Magistratae ought to pay them; this never invades the Magistrate's Power, or absolves him from his Obligation of being a Nursing-Father to the Church. Nor will I dispute what *Voet* says of Patrons providing Stipends, if the *Reconsiderer* had fully given us his Words, as *Eccl. Pol. Par. 1. Lib. 4. Tract. 3.* *Non est in se illicitum, ut dicti patroni stipendia procurent, prout ad hoc antiquitus obligati fuerunt; si modo nihil auctoritatis aut dominationis in res & vocationes Ecclesiasticas sibi sumant. Sed tamen non ita tutum est, nec conducere, docuit nos eventus sub Papatu, & hodierna experientia.* We see from this, that *Voet* is speaking rather of these Patrons who were Defensors of the Church's Patrimony, than of these Benefactors to the Church, who claimed not any Title of bringing the Church into Bondage because of their Bounty, nor assumed to themselves Authority or Domination in Matters or Callings Ecclesiastical: And yet even upon that Footing, because of former Corruption, he thinks it not safe to have any Thing to do with them, or to be under Obligations to them.

Page 61. The *Reconsiderer* proposes a Question out of *Voet's Eccl. Pol.* Whether it be better the Church should retain the Administration of the Stipends, or the Magistrate? He answers, Calvin and other Reformers thought the latter more expedient.

*Ans.* 1. It may be needful here to consider, what is to be understood by the Administration of Stipends, if thereby be understood the Way and Manner according to which they are evicted, or Payment is made: *Voet* leaves the Matter indifferent, which of the Ways, whether by the Church, in the Hands of their Deacons, or by the Magistrate, as a Nursing-Father to the Church. 2. *Voet's Words, Eccl. Pol. Par. 1. Lib. 4. Tract. 2. Cap. 4.* bear nothing alien from the *Considerer's* Purpose; *Exortatio reformatione, quamvis aliqui doctores reformati, inter quos eminet Calvinus, (Vide ejus Vitam & insignem Epistolam ad Cardinalem Sadolei) exemplo Pauli, recusantis stipendia Ecclesie Corinthiaca, ob graves rationes, &c. non tamen diaconi, aut piam domum praefecti, &c. suae cujusque commendatae portiones curam & administrationem objecerunt, aut a se in magistratum transulerunt; nec princeps & magistratus eam ipsis abstulerunt.* But, 3. *Voet*, and those he quotes, are only speaking of who are the fittest Men for providing and making effectual Payment of Ministers Stipends; but our Question is about the constituting a Title. No Man of the *Considerer's* Principles will, in the first Sense, refuse the Administration to the Magistrate; that is, That he see that the Church be sufficiently endowed, and that this Endowment be made effectual for Ministers Support: But the Church, who make him a Minister, and establish the Pastoral Relation between him and the Parish endowed, do constitute his Title. 4. According to *Didoclavius* and others, the Magistrate ought to endow the Church, and, by his Authority, command Stipends to be paid to Ministers, who, according to *Voet*, are not the Alms-men of the Magistrate, as our Free-thinkers now would have it; *nec fruuntur stipendiis per modum elemosinae, ex caritate; sed per modum mercedis debitae ex justitia.*

Page 61 and 62. The *Reconsiderer* proceeds next to his Observes; but what they make against the *Considerer*, who

who hath said, That the Church only hath Right of disposing her Patrimony, *that is*, of determining to whom this and that Stipend shall belong, I do not see ; however, having followed him through his other involved Remarks, I shall view these also.

Upon his first Remark, I say, That it is not only lawful, but Duty, for the Magistrate to make Provision for the Church, and to make Laws for Support of a Minister's Title to a Stipend, which he hath independent upon a Presentation.

Upon his second Remark, I allow, That the Magistrate may determine the Matter and Manner of recovering a Minister's Stipend, *in foro civili*, and what is the legal Evidence of a Minister's Title ; but still this supposes a prior Title, which a Minister duly admitted hath, tho' never presented : And, if he cannot pursue for a Stipend without a Presentation, then the Presentation constitutes the Title, and is something else as the Document of a Title.

Upon his third Remark, I say, That a Minister's Title to a Stipend flows from a Spiritual Source, his being made a Minister of the Gospel ; and his Right to the modified Stipend of such a Parish flows from this Ecclesiastical Fountain, that the Church hath established a Relation between him and the Parish so endowed ; and all the Right he acquires from the Civil Magistrate, is but a Support, Confirmation, or Corroboration of his Ecclesiastical Title. But the Patron's presenting is, That the Presentee have the Title, whom the Church is commanded to admit, according to the Laws, whether he be the Parish Choice or not.

So that, however confident our Author may be, that his Observations are sufficient to answer all the *Considerer* hath said, either from Mr. *Rutherford* or himself, he will be pleased to remember what I have already told him, That, from the Deed and Power of the Magistrate to that of the Patron, the Consequence is not good.

The *Reconsiderer* next proceeds to remark on what the Author of the *Right* had said, That the Magistrate only confirms a Right given by the Church, and this



Right is essentially founded on Scripture, 1 Cor. ix. Gal. vi. 6, &c.

All that is noticeable in his first Answer, is, concerning the Power of the Magistrate, in prescribing Conditions to them who claim the Benefit of publick Establishment, &c. One of which, he says, p. 63. may be, *That a Minister accept of a Presentation, as a legal Document of his Civil Right to such a Maintenance as the Law has provided.*

*Ans. 1.* I have over and over observed the Fallacy in his Reasonings, as if Presentations were only given as a Minister's Decree for his Stipend. Let him tell me, if a Minister, duly admitted, would not obtain all Diligence for his Stipend, tho' he had never been presented? 2. Let him tell me, if he be able, What is that Law which requires a Minister to accept a Presentation? Verily, there is no such Law. 3. If it be lawful for the Magistrate to make the accepting a Presentation a Condition of his giving the Minister all Civil Countenance and Support for his Stipend? then it will follow, 1. That Patronages were lawfully restored, and our General Assembly 1715 were out, when they said, *That, by the Act restoring Patronages, the Constitution of this Church was altered in a very important Point?* Or, 2. That tho' a Minister should be never so duly called and admitted, yet he shall have no Stipend, unless he accept of a Presentation; so that the *Reconsiderer* gives the Patron a Negative in the Disposing of the Stipend.

To what Purpose his second Answer is, I cannot see; for Ministers have a Title to a Stipend, the Magistrate is bound to provide them: And, whether they be Hereticks or Infidels whom the Magistrate makes liable for this Provision, of whom says the *Reconsiderer* scoffingly, p. 63. *That they would refuse a Citation out of the New Testament;* Yet the Minister's Title, in virtue of his Office, is good; and the Magistrate having determined the Matter of the Stipend provided for such a Parish, and the Manner of evicting it, it is a Part of his Duty to support and confirm the Minister's Title, acquired in virtue of his Relation to a Parish so endowed.

To as little Purpose is his third Answer, *That no Spiritual or Ecclesiastical Right is claimed by them, to whom, according to the Scripture, Tribute is due; or to the Laird, who hath a Scripture-warrant to uplift his Rents.* For, if the Prince or Laird, to whom the Tribute or Rent is due, were Spiritual Trustees, and Ecclesiastical Officers, very fitly should their Title to Tribute and Rent be called Spiritual and Ecclesiastical. So that the Difference between these and Ministers of the Gospel, and their different Rights, is obvious.

As to his fourth Answer. Tho' I am not of that Church, who claim a coercive Power in their own Courts to make good their Title, and therefore can join with *Didoclavius* in jesting at that coactive Power; yet, an Ecclesiastical Title to Lands and Money may easily be understood, when none but Ecclesiastical Persons, as such, have the Title to such Lands and Moneys; and that it is in vertue of such an Ecclesiastical Station and Relation, they claim such Lands and Moneys.

Page 64. The *Reconsiderer*, with his wonted Civility, judges the Author of the *Right* indisposed, for saying, That the Church gives the Right, only the Magistrate confirms it; yet seeing he hath not been so merciful as to remove the Indisposition, by disproving what the *Considerer* had said, he will yet aver, that, as soon as the Church invests a Man with the sacred Office, and establisheth his Relation to a Parish, he may go to the Christian Magistrate, under whose Jurisdiction the Parish is, and require him to make a sufficient Stipend, to which he hath already a natural and divine Right.

What else the *Reconsiderer* hath in his 64 Page, is but a Repetition of what hath been already considered; only, at the Close of the Page, he asserts the *Patron's Right to be Civil, and not Ecclesiastical.*

The Author of the *Right*, Page 64. hath shown, that his Right is not a Right truly Civil; which he argued from the Nature of the Acts in which it is exercised, *viz.* The Looking out and Nomination of a Minister, and the negative Interest acclaimed in their Maintenance; all which are Actions of an Ecclesiastical Nature. And tho' I do not say, but flatly deny, That such a Trust or  
Power

Power should be vested in the Patron ; yet the Testimony of them who except not against the Patron's Title, may have Weight here, for proving that his Trust is Spiritual and Ecclesiastical ; for which End, I must again repeat what Grey saith, in his *System of English Ecclesiastical Law*, p. 254. *That it doth not follow, either from the Patron's being now vested with that Right by common Law, or from its being annexed to a Temporal Inheritance, that it is itself a Temporal Inheritance, or ought, legally speaking, to be considered otherwise than as a Spiritual Trust, a Trust of a Spiritual Nature, and for Spiritual Ends, &c.*

What the Reconsiderer observes from *Sibrandus*, with his mistaken Apprehensions of *Voet* thereupon, I have already considered it at large ; to that I refer, and shall therefore proceed to the several *Sections* with which he concludes his Performance.



## CHAP. IV.

*Containing Remarks on the several Sections with which the Reconsiderer concludes his Performance: In which, the Considerer's Corolaries, Definitions of Patronages, and History of the Laws concerning them, and his State of the Question is vindicated. The Reconsiderer's Shifts, with his Misrepresentations of the Instances adduced by the Considerer; shewing the active Countenance that is now given by Church-Judicatories to Presentations, and the Invasions made on Christian Congregations, are surveyed. And the Right of appointing Committees and Correspondencies, for settling Churches and Presentees, against the Will of the Congregation, is enquired into: In which several Principles are laid down, agreeable to the Constitution of this Church, and demonstrative of the Illegality and Hurtfulness of such flying Courts.*

Pages 65 & 66. **H**E begins with the Considerer's counter Corolaries, which, with him, I shall allow to face one another, that the impartial Reader may determine, whose Corolaries are best founded and supported, who is most on the Side of the Principles of the Church of Scotland, and against Patrons, seeing the Reconsiderer is so wise as not to dip in the Affair. How the Considerer can be said, not to have Face to contradict the Case-Writer, and yet to have set down counter Corolaries, can be best explained by one of the Reconsiderer's Veracity and Judgment,

I had



I had said, p. 69. and 70. of the *Right*, That these are many sad Effects of Patronages; as, 1. That the Friends of the Presentee often engage for his Dependence on the Patron. 2. Persons presented concur with Patrons and their Adherents for their promoting a Course of Defection, and their Suffrage is engaged for that Effect? 3. The Right of Patronage keeps the Church in such a sneaking and slavish Dependence on great Men, as is most unworthy of the Dignity and Character of Ministers of the Gospel. The Truth of these Things is so manifest, that many Presbyteries and Synods, in which, not six Years ago, there were zealous Appearances for the Cause and Interest of this Church, are now broken, dispirited and overpowered by such as are got into the Ministry by Patronage-men, that languishing and deplorable is the State of the Church in all Corners. *This, the Reconsiderer says, is the sad Effects of Melancholly, and refer him to the Gentlemen whose Profession it is to remove them.* This, I may say, is a renewed Swatch of the sweet Temper he hath been in when he wrote his Reconsiderations, as well as a Discovery how he stands affected to this Church, when the bewailing her two visible Desolations is imputed to the sad Effects of Melancholly.

As to the *Considerer's* remaining a Member of a Church that will not be reformed nor healed, the *Reconsiderer* may believe, that his Melancholly hath not got so much the Ascendant over him, as to determine him to quit his Station, as long as he hath an Opportunity of testifying against prevailing Corruptions and Defections: So that the *Reconsiderer* is mistaken, when he thinks in his childish Manner to remove such an Obstacle, however inconsiderable, out of his Way; and, tho' the unhappy Time should come, that the *Reconsiderer* and his Confederates should get Men of the *Considerer's* Principles driven from them by imposed sinful Terms, they will even in that trying Event give Testimonies of their Adherence to the Principles of this Church, and also of their untainted Loyalty, when others are strengthening the Hands of *Jacobites*, and cannot purge themselves from Intimacies with *Papish* Missionaries and Recusants.

Page 66. The *Reconsiderer* proceeds to a third Chapter, which he hath divided into so many Sections; these I shall remark upon in their Order.

The first Section is made up of a few poor Criticisms upon the *Considerer's* Stile and Expression, which, had the *Reconsiderer* been so charitable and kind as he would pretend, he had not taken up Paper with, inasmuch as they do not affect the Cause; but, that I may not be at the Discretion of his Promise or Charity, I shall take a View of the poor Remarks which make up this Section.

Because the *Considerer* had said, in the Introduction of the *Right*, That the Patronage-right had undergone its Alterations, both as to the Right, and the Exercise of that Right; and, p. 18. That Patronages are *funditus* unlawful: The *Reconsiderer*, p. 66. and 67. tells us, *That we will not stay to crivise on the Alteration of Right, as Right distinct from Exercise; and if a Right was from the Beginning unlawful, what Alteration could it undergo, but to the better?*

Ans<sup>w</sup>. 1. These Patronages, which, p. 18. of the *Right*, the *Considerer* said, are *funditus*, unlawful, are these in which the Patrons usurped a Title to nominate and present to a vacant Church and Benefice: The Patronage in the Introduction is, that when the Patrons were only Factors for the Church, and Protectors of their Livings; so that the Questions not being *ad idem*, there is no clashing in the Answer. 2. In Proportion to the Title claimed, when Patrons were only Defensors, &c. and afterwards nominate the Man to be institute, &c. so behoved the Exercise of that Title and Right to be. 3. Tho' Patronages had always been the same in their Nature, they might in the Succession of Time, and through many occurring Circumstances, have undergone Alterations to the worse; the same wicked Man may become more wicked: So that it will yet hold, that these Patronages, which claim a Right of nominating and presenting to a vacant Church and Benefice, are *funditus* unlawful. And the Difficulty is not increased by the *Considerer's* saying, That no Conveyance of a Right can alter its Nature, because the first Patrons or Defensors, and these afterwards, usurped and esta-

established, were not the same in their Nature. I should allow the ancient Advocates and Defensors to be reponed to their Business, if the *Reconsiderer* and his Confederates could find the Moyen of discharging the last Sort of Patrons.

The next Criticism is low enough, 'Because the *Considerer* hath other Persons for other Ministers.' What if this was an Error in the Print, or in the original Manuscript, what is the Matter? Doth not every Body know, that the Speech is concerning Ministers? But this little Remark shews how sincere he hath been in his Professions of Charity.

Because the *Considerer* had said, *p. 4.* of the *Right*, That the Church of *Scotland*, during the greatest Part of her Liberty, had been oppressed with Patronages, he asks, *What Consistency is between Liberty and Oppression? Or, how the Church of Scotland could be oppressed during her Liberty?*

I answer, These two are as consistent as two contrary Qualities in one and the same Subject, which every one will allow to be, tho' not in the same Intensity of Degree.

Mr. *Reconsiderer*, if you had proposed to pass over any Thing in the *Right* which you thought Nonsense or flat Contradiction, you had not dealt in such small Wares; and your deriding Reflections, because of a Testimony against Patronage, neither proclaim your Charity or the Strength of your Reasons, nor in the least weaken the Arguments against Patronages; which Title hath no Foundation in Reason or Religion.

*Pag. 67 and 68.* The *Reconsiderer* will rather fall out with himself, than fail in the Multiplication of his Sections. In his second Section he tells us, *That the Considerer's first Definition of Patronages is one of his own contriving:* And yet, *p. 44.* he talks as if I had given the quarrelled Definition from the Canon Law. I have shown, that the presently claimed Title of the Patron, or any Definition of Patronages now, carries that usurped Right as high as ever was done in the Time of *Popery*, or by the Canon Law; which the *Reconsiderer* hath not been able to disprove.

For

For all that is in the *Reconsiderer's* third Section, p 68 and 69. my Chapter of Laws and Acts relative to Patronages will stand; and, if the *Reconsiderer* would review his Performance, he would find, that he hath not duly considered all these Laws and Acts.

As the Church of *Scotland* never made Patronages a Part of her Constitution, so her Constitution is opposite thereto; and she never was of the *Reconsiderer's* Opinion, *That Presentations are an instituted Right, generally thought convenient to be superadded to the natural Title.*

Whether it be Charity or Asperision, *That, were the Church of Scotland now settling her Policy, she would neither mention Patronages, nor Prelacy;* I shall leave it to the *Reconsiderer* to account for, because he hath asserted it. Matters, I own, are at present in a very declining Condition; but I thought not that they had been altogether so ripe for a Change, that, were the Policy now settling, no Testimony would be given against Prelacy: It would seem the *Reconsiderer* is better informed than I, what may be on the Anvil.

As to what he mentions in the Close of the Section, of Ministers their receiving a Title to their Livings by Presentations; I have already so fully answered that Pretension, that I am wearied with Repetitions.

In his fourth Section he attacks the *Considerer's* State of the Question, and whether his Fountains have Water in them or not, the *Reconsiderer* hath not thought fit to dip in them.

He tells us, " That the whole Strefs of the Controversy rests upon an Answer to this Query, Whether a Presbyterian Minister duly elected by the Church, and thereby acquiring a Right to be sustained by these who enjoy his Labours, may without Sin accept of a Laick Patron's Presentation, as giving a Civil Right, by virtue of established Laws, to uplift and enjoy a certain fixed Stipend, modified as to Quantity and Quality by Civil Authority? Or, whether a Patron can give him such a Right, without encroaching on the Spiritual Jurisdiction? Or he, the Minister, can accept without betraying the spiritual Prerogative?" This the *Reconsiderer* answers in the Affirmative.

*Ans<sup>r</sup>.*



*Ans. 1.* In the State of the *Case*, the *Reconsiderer* says, *That the Church ought to apply to the Civil Powers for Redress of any Grievance sustained by the Laws establishing Patronages.* One would think by this, that the *Case-Writer* admitted, that Patronages had something grievous in them ; but, when he is transformed into the Quality of a *Reconsiderer*, he states the Matter, as if Patronages were lawful, and there were no Grievance at all in the Laws establishing them. 2. His present State of the Question before me, is a begging the Question : For the *Reconsiderer* knows that Presentations are not given for the End condescended upon in his State of the Question ; they are given to constitute a Title, and not as a Decree to make a previous Title effectual. 3. As to what he speaks of a Civil Right to Stipends, seeing almost all Parishes have Decrees to modified Stipends, let him tell me, if Ministers duly elected and admitted to such Parishes, upon Production of their Acts of Admission and Decrees, would not have all the Civil Title in Reason and Justice needful ? So that, 4. The *Reconsiderer* should have stated the Question thus, Seeing Patronages are justly esteemed as a Grievance, and that they have no Force in Law, unless they be accepted by the Presentee, and that the Presentee, who doth not accept, or any other duly elected and admitted where there hath been no accepted Presentation, will obtain all Civil Diligence for his Stipend ; is it lawful by an Acceptance to ratify the Patron's usurped Title ? This is the true State of the Question, which the *Reconsiderer* thought fit to shift ; and the *Considerer's* thirteen Articles have an Eye thereto, and are not such Mistakes as the *Reconsiderer* would alledge : But, seeing he is pleased to attack some of them, I shall take a View of what he saith.

The *Considerer's* first Question will stand the Shock of his *Reconsiderations* : For, if a Minister's Right to his Stipend be essentially founded on the Law of God, the Laypatron hath no Title to nominate and present to that Living ; This Power the Patron claims : And I ask the *Reconsiderer*, if the Nomination and Presentation of a fit Man to be admitted by the Church, belong to the Patron, or to them among whom he is to labour ?

The second Question in the *Right*, p. 10, 11. the *Reconsiderer* thought fit to pass over, perhaps it would have put him to his Shifts; therefore, whether this Fountain had Water or not, he would not dip in it. The Question is, Whether the Patronage-right, without encroaching on the New-Testament Rule, may be indifferently used?

He says, *The Considerer's third Fountain is very dark, but not so deep but that a small Light may discover the Amount of it*; That is, according to his Propriety of Stile, that a small Light may discover that which is very dark. The plain Amount of the third Article is, Because the Church are made Sufferers by the Imposition of Patronages, are they to do a Deed corroborative of the Patron's usurped Title, that they may escape Suffering?

His Remarks on the *Considerer's* fourth Article give a Swatch of his stretched Reasoning. One would think it might have escaped his Censure to have said, That, tho' a Murderer of his Sovereign, and an Usurper of the Throne, should submit to reasonable Limitations of Government; yet it is unlawful and unjust that he should govern. I think this hath no Tendency to shake Subjects loose of their Allegiance, but to confirm them in it. And if Assassins of their Prince may, upon proposing advantageous Terms, be acknowledged as Sovereigns, little is to be promised upon the solemn Oaths of some to disclose all traitorous Conspiracies against his Majesty: Nor can the abjuring the Pretender, upon such Principles, be any Security of the Throne. Several Observations might be made on what the *Reconsiderer* remarks on this Article, and; the Cannon turned against himself: But his Notions are so extravagant, and his Glosses on the *Considerer's* Words so unjust, and so exposed to every Body's Reflection, that it was needless to have put myself to the Trouble of these few Lines.

He takes a short Cut with the 5, 6, 7, 8, 9, 10 and 11 Articles, which will be found to run wider of one another than he imagines; and, seeing he thought it convenient to pass them over without further Remarks, I shall leave them to support themselves.

Page 72. he would sum up all these Articles in this one

General, viz. "That, Patronage being in itself every Way unlawful, no Limitations can render it lawful; nor can any passive Submission to them fortify or establish such an Usurpation." Tho' the *Considerer* will abide by this, yet whoever is pleased to view the Articles the *Reconsiderer* hath jumped over, will find, that this is not the Amount of them all : But, because he hath some Remarks on this one general Point, I shall take a View of them.

His first Remark is, "That *Erastians* will not easily grant that Patronage is every Way, or in itself, unlawful."

*Ans.* I readily agree with him in this : But who are the *Erastians*? Not the Church of *Scotland*, I hope, nor any Presbyterian Divine? Yes, according to the *Reconsiderer*, the Church of *Scotland*, and *Voetius*, that eminent Stickler against Patronages, must be brought in of this Opinion: But how unjustly this is alledged on the Church of *Scotland*, I have shown already from the second Book of Discipline, from their Conduct in 1649, 1712, and 1715; And, as for *Voetius*, he expressly says, "That the Patronage-Right is unjust and unlawful, hurtful to the Church, and cannot be so limited as to be lawfully exercised."

But, notwithstanding of this very strong Way of speaking in *Voet*, the *Reconsiderer* thinks to refute him from himself by two Instances, proving it to be his Opinion, That it was not unlawful for Patrons to procure Stipends.

*Ans.* 1. After that learned Man, *Par. 1. Lib. 4. Tract. 3. Cap. 1.* hath shown, that Ministers are not the Alms-men of the Magistrate, but by a most just Title are maintained from the Funds devoted for that End, he proceeds, *Cap. 4.* and tells us, *Non est, &c.* "It is not unlawful that Patrons, as anciently obliged, procure Stipends, providing they claim no Domination over Ecclesiastical Persons or Offices." Now, who will deny this? They were anciently but Factors for the Church, Protectors of their Revenues. The Question is not concerning such, Patrons do now claim another Sort of Power; so that this Quotation is nothing to the Purpose :

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Yet, tho' anciently they had no other Power, *Voet* tells us, that the Event shewed what Danger happened by such Confidants. 2. The other Quotation must be of the same Import, unless he would have *Voet* in one Volume contradicting what he had said in another: He doth not consider such Provisions as intitling the Donor to present and nominate Persons to that Gift. If any Person will endow a Church, who would not be thankful for it? But the Reserving a negative Title in the Disposal of that Endowment, transforms the Gift into a Grievance.

His second Remark for the most Part turns upon Terms used by the *Considerer*, that in the Room in which they are put will appear something else as metaphysical Darkness; and what the *Reconsiderer* speaks of receiving a Civil Right to a Stipend by Presentation, hath been answered over and over again.

Altho' he would have the 12 and 13 Fountains to meet in the same Chancel, yet the impartial Reader will see how much he shuns answering the Question, *Whether the Patron hath a Right to present to the Benefice?* And the *Considerer*, without any Hazard of falling out with himself, will confidently aver, That the Civil Laws are not the Ground and Foundation of a Minister's Right to a Stipend; and that the Magistrate may, and ought to ratify and confirm the Right and Title thereto by Civil Laws; and that this Right and Title, so confirm'd, is consequential upon the Pastoral Office, and Relation to such a Parish; which Right and Title is not given by the Magistrate, far less by the Patron.

But here the *Reconsiderer* hath a Distinction ready for me; he will grant, "That Civil Laws are not the Foundation of that natural Right confirmed by our Saviour, *That the Workman is worthy of his Wages*; or that a Minister hath a Title to be sustained some how or other: But that the Civil Magistrate's Authority, determining the Quota, and ratifying a Title thereto by Civil Laws, is the Ground and Foundation of a Minister's Right to that Stipend so modified; and that it is no more sinful to accept of a Presentation, to instruct their Claim before a Civil Court, than of a Decree directing them to



“ particular Persons and Places from which it is to be  
 “ uplifted.”

*Ans. 1.* From this Distinction we may learn what the *Reconsiderer* means by a Minister's Civil Right to a Maintenance, namely, That the Minister hath not this Civil Right to the modified Stipend of his Parish, unless he accept of a Presentation; which, tho' it is false in Fact, yet shows what necessary and convenient Things he esteems Presentations to be. 2. I have before at large shown, that Ministers, in vertue of their Relation to their Parish, have a Right to the Stipend of that Parish, and that it is the Magistrate's Duty to confirm that Right: But, according to the *Reconsiderer*, he must accept of a Presentation before he make out his Right; So that it would seem he were for reviving that Act in *Charles II.* his first Parliament, by which none were to enjoy Stipend or Benefice without a Presentation. 3. Seeing the *Reconsiderer* allows a Minister such a Right to his Stipend as the Workman hath to his Wages, he will remember, that the determining how the Wages shall be paid, is not the Foundation of the Right to it, it is Work and Service; so that which documents his being engaged in the Work, is the Foundation of his Claim to the Wages, whatever it be, or however it be paid. 4. Tho' the *Reconsiderer* confounds them, there is a vast Difference between a Presentation and a Minister's Decreet: The Presentation nominates and presents the Man to the Benefice, that he may have the Title; the Decreet is founded upon a prior Title. So that, I apprehend, the *Reconsiderer* will either recant his Doctrine, or devise more clear and convincing Distinctions, before the *Considerer* and he will be agreed.

But he concludes this Section, as if the *Considerer* had agreed with him at the Expence of falling out with himself; For, says he, he allows the Magistrate a Power of determining the Quota, and confirming the Right; and yet he pleads for the natural and Divine Right of Tithes, which no Civil Power can cut or carve upon.

*Ans. 1.* I wish he had told us where the *Considerer* said, That Tithes were due by a natural Right. He said, There

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are many learned Men of that Opinion, as indeed there are ; and they support their Opinion with several very probable Arguments, but the *Considerer* gave no positive Judgment. But, 2. What tho' he had given it as his plain Opinion ? Where is the Inconsistency of it with the allowing the Christian Magistrate a Power of determining the Minister's Quota out of this Fund, and of confirming his Title thereto by Civil Laws ? The *Reconsiderer* had only proven an Inconsistency, if I had said, That the Tithes were all due to Ministers ; in that Case, the Magistrate should have little Occasion to determine the Quota : But, if they should be appropriate to other pious Uses also, the Christian Magistrate may determine the Minister's Quota, because of his coercive Power needful to be interposed for evicting Payment. Yea, even tho' Tithes were of Natural and Divine Right, the Magistrate may determine the Quota of a Minister's Stipend out of that Fund. A Man's Children have a Natural Right to his Estate ; yet, if he hath made no particular Partition, the common Laws of the Land determine to every one their Portion out of that Estate ; when yet it will remain an undeniable Truth, That their being the Children of such a Man, is the Ground and Foundation of their Right to their Father's Estate, or to any Portion thereof, and not the Laws of the Land, which have laid down Rules how the Estate shall be divided.

But I proceed to his fifth and last Section, in which he reviews some Things in the *Considerer's* fourth Chapter.

The *Considerer*, for the Proof of this, *That Patronages are an unlawful and usurped Right*, in the 17th Page of the *Right*, directs to our *Second Book of Discipline*, Chap. 12. Sect. 10. to the Declarature of Assembly 1649, to the 10th Act of Assembly 1712, and to Assembly 1715, to the learned Author of *Altare Damascenum*, p. 591, &c. to Rutherford, in the End of his *Due Right of Presbyteries*, p. 458, &c. to Park's Treatise against Patronage, to Voetius's Ecclesiastical Polity, *Par. 2. Lib. 3. Tract. 2.* And yet, says the *Reconsiderer*, " He directs us for Proof to all who have proven " what no Presbyterian will deny, *viz.* That Ministers

"ought to be maintained." No Doubt they prove that, but they do also, in the Places referred to, prove my Assertion: So that I think the *Reconsiderer* hath not acquitted himself handsomly in this Part of his Review.

As to what he talks about Tithes, he fights with his own Shadow; for, tho' there be considerable Authorities and probable Reasons to support what he would fix on me, as my Opinion in that Matter; yet I asserted not that as my Opinion, but left that to such as would dispute it: Only, considering the Probability of the Thing, I argued from it, *ex superabundante*, against the usurped Title of Patrons. But, tho' Tithes should not be due by a Natural Right, or by any positive Divine Institution now; yet they are the common Fund of Ministers Maintenance, and have been so commonly devoted to pious Uses by ancienter Laws than the Charters of our Patrons, the Reservation of a Right to nominate and present a Minister will be undermined.

That the *Reconsiderer* might shift the answering what I had said, That what is in itself unlawful cannot be lawfully used, he says, p. 75. *It is not unlawful to give a Civil Right to the Stipend.* As this is not the Question, so, tho' it were, I have shown what is the Nature and Foundation of a Minister's Right to his Stipend, and how high the Patron's Claim doth rise; so that the *Reconsiderer* but shifts the Affair.

In the same Page he says, "I have shewed in what Shape our Divines have opposed Patronages as sinful, not as founding a Right to the Stipend, but usurping the spiritual Right of Election." And for this he goes to *Beza*, as quoted by the Author of *Altare Domuscentum*.

*Ans. 1.* I wish the *Reconsiderer* had given us the Words of *Beza* only opposing Patronages as usurping the Election, but not as founding a Right to the Stipend; but he was wise enough not to attempt to bring ben the Thing that was not the but: For, tho' *Beza* opposed the Patron's usurped elective Power, it will not follow from this, that he lodged any other Power in his Hand. But, 2. The *Reconsiderer* having passed over a Quotation in the *Right*, from *Beza's* Confession, *Cap. 7.* it would seem

seem he was conscious, that, tho' he might make a Swagger with the Name of so great a Man as *Beza*, he would adjourn the Consideration of his Words to another Time: But I shall again give *Beza's* Words, and let any impartial Reader extract out of them what Power to the Patron they will possibly bear. *Non de ejusmodi rerum reformatione, sed ejectione, abolitione, & ultima internecione, serio omnibus piis hominibus esse cogitandum.* 3. The Author of *Altare Damascenum*, p. 6. speaks pretty clearly against any Part of the Patron's Power and Title; but the Words will speak best for themselves, *Patroni presentatio tollit Ecclesie libertatem in eligendis suis pastoribus, quod idem jus ex lapsu quatuor aut sex mensium ad superiores jure caduci gradatim progrediendo devolveretur, servitutem auget idem de collatione dicendum. Qui enim libera praeunte Ecclesie electione sacatur in ministerium, ipso facto haberet jus percipendi fructus beneficii; siquidem beneficium datur propter officium, &c. temporalia emolumenta spiritualibus rebus sunt annexa, ut effectus causam consequens, &c.* I shall make no Remark on these, allowing any impartial Reader to judge what the *Reconsiderer* hath gained by quoting these Divines.

In the same Page he says, "That the *Considerer* refers to *Eraustians* to prove, that active Countenance should not be given to Patronages."

*Answer.* I agree with the *Reconsiderer*, that, if I had done so, it had been very hard to put Men to the Proof of what they deny; but my Words are so quite another Thing, that I am at a Stand what to say of his alledging so. The Words we have in the 18 and 19 Pages of the *Right*: "As to the active Countenance which a Church, or the Ministers thereof, may give, tending to support the Patronage-right; this may be left to those *Eraustian* Gentlemen, who put the Government of the Church so in the Magistrate's Hand, as that he may govern it in what Way it pleases him, when yet to give the Magistrate such a Power in Civil Government would be thought arbitrary, &c." Is there any Thing here putting it upon *Eraustians* to prove that active Countenance ought not to be given to Patronages? They who,



as *Erastians*, say, It ought to be given, should prove ; for *affirmanti incumbit probatio* : And, if any will set about the Proof of a Negative, it must be by a Positive, in which Task the *Considerer* hath given several Instances of this Church's active Countenance to Presentations, the very Relation of which is enough to shew their Unlawfulness. And if the *Reconsiderer* had condescended on any one Instance before 1649, in which the Church thrust in a Presentee upon a Congregation against their Wills, then only had he proven, that the active Countenance to Patronages was as great then as now ; but, having failed in this, he hath done all he could to expose this Church, as at that Time acting contrary to their Principles. From this Aspersion I have vindicated these worthy Fathers, and shall now proceed to the *Reconsiderer's* Review of my Instances for proving the active Countenance that is now given to Patronages and Presentations.

Page 76th, he says, " The *Considerer's* three first Instances, like his Fountains, agree in this common Channel, That Presentees accept, Church-Judicatories do not censure them for it, tho' by the *British* Act the Not-accepting would make all Presentations void and null. Settlements on Presentations are affirmed by the Church, instead of discouraging the Accepters."

*Ans.* Whenever the *Reconsiderer* finds himself straitned for an Answer, he immediately huddles up the Matter in Generals, omitting what may be the most pinching Article. This he hath done upon my State of the Question, and the same Method he takes in the Instances before us ; the first of which is, When Ministers and Probationers involve the Settlement of One duly called, by accepting a Presentation, without which the Presentation would have no Force. The second is, When our Assemblies do not censure and discourage the Accepters, which, if it were done, would make effectual the Advantage designed by the *British* Act 1719. The third Instance is, When the Settlements of Presentees are affirmed, tho' to the Invasion of the Rights of Christian Societies, the Order and Constitution of the Church.

These are the Instances which every Body will see are partially represented by the *Reconsiderer*, on which he hath  
several

several Remarks ; As 1. *That the Considerer had done well to produce one Instance of a Christian Church that ever censured a Man purely for accepting a Presentation, on Supposition of a Call, and other Qualifications, or any Rule whereby the Church of Scotland stands obliged to it.*

*Ans.* 1. That which the Considerer complains of, is, That, seeing the Act of Parliament 1719 puts it into the Power of the Church to make Presentations null, they do not inhibit Acceptances. 2. Altho' the supreme Judicatory hath made no Act this Way, yet the *Reconsiderer* knows, that, in divers Instances, both Presbyteries and Synods have discharged their Duty this Way. 3. If Patronages be a Grievance, I ask the *Reconsiderer*, if it be not our Duty to do all we can to get rid of this Grievance? And seeing, in the present Situation, the inhibiting Acceptances would do it, I ask him, if it were not fit that the Church made such an Inhibition? I am confident every genuine Presbyterian would think this Duty, whatever some high Pretenders to Prudence may talk of Inexpediency.

His second Remark is, *That the Considerer hath not been able to prove it sinful to accept of Presentations, and so the Acceptor is no great Object of Discipline.*

*Ans.* There is nothing in this but an Assertion, and my Assertion bears as much Credit as his ; but, having proven the Unlawfulness of accepting Presentations, both in this Performance, and in the *Right considered*, I repeat not, but refer, as I do with his third Remark, which, in the preceeding Part of this Performance, hath been fully answered.

There is one Thing in his 76 p. which, I own, I do not understand, viz. *That the Acceptor of a Presentation is no great Object of Discipline, who, in Spite of the free Call and spiritual Claim, does not make his own Civil Right void and null.* Let them be gained by this Part of his Reasoning, who are mystical enough to understand it.

Page 77. He proceeds to the Instances of Settlements unduly made, and says, *That the Considerer's Instances are not very fairly represented ; and the Account he makes of them, and the Arguments founded on them,*  
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*gain equal Credit to his Veracity and Judgment. That is to say, that the Considerer hath neither Sense nor Honesty, or is both a Fool and a Liar ; still that will not affect the Subject, unless it be to the Prejudice of him who hath such a powerful Talent of Ribaldry.*

*He says, I will touch at a few Particulars, that we may judge of the rest thereby.*

*Ans. 1. It is to be observed, That, unless it be to spue out his Spleen, he hath not given any Account of several of the Settlements complained of by the Considerer. 2. Suppose I had given a mistaken Representation of the Instances, he should have proven that I had done it as to every one of them, or retired such an unjust Charge. 3. If I prove the Truth of my Instances, and fix on him the grossest Account of some of these Instances, I may with Reverence of his Veracity and Judgment desire the Reader to judge of the rest thereby.*

*The first Instance respects the Settlement of the Parish of Oyn, concerning which the Considerer had said, That the Aversion of the Parish to the Presentee always appeared. The Reconsiderer says, That there was a considerable Appearance at the Moderation to the contrary ; and a Call was found by the Presbytery, without one contradictory Voice of Heritors, Elders, and Heads of Families ; and the Letter of Acceptance referred to the Choice of the Parish, and Judgment of the Church : And it is a wide Mistake, that the Synod of Aberdeen, in 1726, obliged a Presentee to renounce an accepted Presentation.*

*Ans. 1. When the Presbytery of Garioch met first on that Affair, after the assigned Patron had given in his Presentation, a Petition was given in by the Parish, disclaiming the Presentee. When the Presbytery afterwards met for sounding the Inclinations of the People, there was such an Opposition among them to the Presentee, and some of them declaring in Presence of their Heritors, that One of them had threatened to crop his Ears, as the Presbytery was obliged to adjourn to another Day and Place, some of the People that Day protested. When the Presbytery met at Chappel of Garioch, One of the most considerable Heritors sent them a Letter, bearing, That he could not attend their Meeting, and pleading a Delay, because*

because of the present Ferment among the Parishoners, &c. Notwithstanding of this, no Delay is allowed. 2. If that Gentleman's Letter have not the Force of a contradictory Vote from an Heritor, the *Reconsiderer* will allow, that, tho' the greater Part of the People were not at that Meeting at *Chappel*, yet one Elder and some Heads of Families protested against the Presentee his being their Minister. The *Reconsiderer* and I are just now pretty much upon the Contradiction; whose Veracity is most to be regarded, I am willing it be tried by the Records of that Presbytery. 3. Such mean Arts were taken to make an Appearance for the Presentee, that People of another Parish were brought in to vote for him. 4. I shall give a Sentence or two of the Presentee's modest Letter of Acceptance. He begins, "Acknowledging the Receipt of the Patron's Letter, showing, That he had presented him to the Charge of *Oyn*; and he concludes with an "Accepting of his kindly Offer." One would think, that, tho' he had no Scruple to accept in an ordinary Case, yet he had little Encouragement to do it, when he saw the publick Testimony of that People's Aversion to him. The Presentee hath something noticeable in his Letter, viz. "That, in a Consistency with the Principles of this Church, he can only look on Presentations as founding a legal Title to the Stipend, and Civil Emoluments of the Parish;" So that, according to him, this Church, who have declared against Presentations to Benefices having *curam animarum*, and who have declared Stipends the Patrimony of the Church, to which a Man only hath a Right in vertue of his Office, must contradict themselves to support him. I always thought Stipends had been Ecclesiastical, and not Civil Emoluments; I know nothing of the Civil Emoluments of a Parish, but the Rents of a Parish. 5. The Committee of Overtures at the Synod had his Letter of Acceptance before them, and the *Reconsiderer* doth not deny the Synod's having it also, tho' it was overlookt. 6. The *Considerer* owns his Mistake, in saying, That the Synod of *Aberdeen*, in 1726, obliged a Presentee to renounce his Acceptance; he should have said 1725 instead of 1726. But I hope this Mistake of the Time alters not the Truth of the Fact. Now, Mr. *Reconsiderer*



*considerer*, contradict these Facts if you can ; and tho' my Veracity and Judgment, it would seem in your Opinion, is not to be regarded, I oppose Ecclesiastick Records to your Veracity in this Instance ; and from this let the Reader judge of the rest.

As to the Affair of *Old-Machar*, I own the *Reconsiderer* hath defeat me ; not that he hath at all shaken what the *Considerer* hath said on that ; for, excepting an Appeal to the unprinted Records of Assembly 1730, he hath said nothing : Now, his Appeal is either to the Grounds of their Sentences, or the Evidences of Facts in that uncommon Affair, which hath done so great Harm to the common Interest of the Church. If the Appeal be to the Grounds of their Sentences, these are the Things complained of in this Matter ; if to the Evidence of Facts, these must be extracted from the Judicatures who had that Affair regularly before them ; and, if the printed Accounts of it under the Hands of the Complainers be not just, the *Reconsiderer* should have shown us wherein ; but, not having done this, we may believe him lame on this Head. What he further offers, is so remote either from Reasoning or Proof, that, were I to muster up all my disordered Passions in contriving an Answer, I must own he outdoth my Capacity ; and therefore I conceive the repeating his own Words is enough to confute them, and too much to discover the Nature of his Complexion, and the Spirit by which he hath been acted: For, says he, *the Accounts our Author hath crowded into the Compass of a few Lines, is a Complexion of so many ridiculous and frightful Features, that I chuse to draw a Vail over it, rather than affront human Nature, by exposing the Imperfections of him who drew it, who discovers the same Goodwill to the Assembly and University, and the same Acquaintance with Christianity and Philosophy.* It were a Pity to disorder his sweet Blood with an Answer to this ; only I may remark, that he hath failed of his charitable Resolution not to affront human Nature, by exposing the Imperfections of one who shares of human Nature, whom yet he would represent as disaffected to Christianity and Philosophy. Mr. *Reconsiderer*, I could not with Con-

science.

science or Honesty have said so of you ; if you cannot have the same Charity for me, I forgive it.

The *Reconsiderer* proceeds next to the Affair of *New-Machar*, which he hath equally slubbered over with that of *Old-Machar*. It was not convenient for him to enter upon the Particulars, a few of which are only mentioned in the *Right considered*, because, unless he would adopt the Invasions of the Church's Liberty by Civil Sifts of Ecclesiastical Procedure, and *Simoniackal* Settlements of Churches, he is not able to say any Thing upon the Head; therefore, leaving his shifting Account of that Affair, I shall only notice the Deceit there is in his Saying, *That the Call was unanimous by Persons of all Ranks*. It is known, that the Commission, in *August 1729*, appointed the Call to be moderated for the Presentee only ; and, tho' it was proposed that others should be in the List, they would not admit of it, nor alter their Appointment: So that, neither such of the Heritors, or their People, who appeared in *June* to elect another as the Presentee, had any Encouragement to come to that irregular Moderation, when they understood that the Commission had confined the Election to the Presentee. I think this will break the Credit of what he speaks of an unanimous Call by Persons of all Ranks: And further, if it be considered how few of that numerous Parish appeared the Day of that pretended Moderation, and what poor Methods were afterwards taken to increase the Number, as little Encouragement had the Commissioners from the Presbytery to prosecute their Complaint before the Assembly, which they did not drop as ashamed of their Conduct: For, whatever the *Reconsiderer* will allow himself to know, some of his Confederates do well know, and the Index of the unprinted Acts of Assembly bear Witness, that, besides the Importunity of a special Committee of Assembly, appointed to converse with the Presbytery's Commissioners, the Assembly themselves appointed them to let fall their Complaint against the Commission: This looks not as if they were ashamed of their Conduct; but, what could they do? What could they expect against an Appointment of the Assembly? How far the *Reconsiderer's* Veracity or Judgment will hold him out in his  
Ac-

Account of this Affair, I will not say, but what is now offered, is Truth; and the *Reconsiderer* hath been so wise as not to disprove some of the black Articles relative to that Affair, as condescended upon in the *Right considered*, and referred to in the Presbytery's printed Informations.

As to the Affair of *Crimond*, I shall now only meddle with the *Reconsiderer's* additional Remarks thereupon, not repeating what hath already been taken Notice of. These Remarks of his respect two Particulars, *Simony*, and the Darling Court of *Correspondents*. But, before I enter on these two, I must observe, that the *Reconsiderer* hath thought fit to pass over my Remarks on the Commission 1730, their Conduct in concurring with, as a Call, a Paper only signed under the Inspection of public Notaries, and these Friends of the Presentee; which increased the Suspicion of *Simony*.

Upon that of *Simony* he observes, *That the Considerer takes Things at second Hand.*

*Ans.* Whether it be at first or second Hand, I ask the *Reconsiderer*, if there was not such a *fama clamosa* of a *Simoniacal* Paction between the Patron, Heritors, and Friends of the Presentee, as that the Synod of *Aberdeen* appointed the Heritors of *Crimond* to be examined on that Head; and the Assembly 1730 ratified this, and Witnesses were judicially examined? Was there not in that Issue a Presumption of *Simony*? So that I think the *Considerer* hath not taken his History at the wrong Hand.

He says, p. 78. *How well does the Considerer receive the Canon Law in the Point of Simony and Tithes, tho' he thinks it a Crime in others to admit of it on any Head?*

*Ans.* I observed, That the *Case-writer* receives the whole Doctrine of the Canon Law with respect to Patronages, which I think unbecoming a Presbyterian Minister; but that I said, that it was a Sin on any Head to admit of the Doctrine of the Canon Law, is among the *Reconsiderer's* Misrepresentations; and I put him to prove what he hath said, in which, if he fail, he must take with his having spoken besides the Verity.

Page 81. He advises his *Considerer* "To review the  
"Can-

Canon Law, and he will find other Accounts of *Simony* than what puts it in any Man's Power to make his Neighbour guilty of it, without the Knowledge or Consent of the guilty Person. *Alt. Dam. p. 94. Simonia a Canonistis definitur, studiosa voluntas emendi vel vendendi aliquod spirituale, vel spirituali annexum.*

*Answ. 1.* I wish the *Reconsiderer* had told where I asserted, either from the Canon Law, or any other Law, that to be *Simony*, which puts it in any Man's Power to make his Neighbour guilty of it. I said, in the 25 Page of the *Right*, That according to the Canon Law that is *Simoniactal*, when the Friends and Agents for the Candidate do enter into Bargain or Contract, even tho' the Candidate should be ignorant of it; as, *Instit. jur. Can. Lib. 4. Tit. 3. Simoniace dicitur quis electus, etiam si quid ignorantibus eo datum fuerit vel promissum*; and, *Lib. 5. Tit. 3. Decret. Greg. Electio Simoniaca est cassanda, si propter hoc electoribus promissa fuerit pecunia quamvis electus ignorit.* This is all I wrote, by which we may see how unfair the *Reconsiderer* hath been in his Representation. 2. *Didoclavius*, to whom the *Reconsiderer* refers, tells us, *Alt. Dam. p. 95. Simonia committitur a dante & accipienti.* Grey, in his System of *English Ecclesiastical Law*, explains the Point admirably, and shews how reasonable it is, not to settle one *Simoniacally* presented, even tho' the Presentee be ignorant of the *Simoniactal* Paction. After he hath spoken of the Statute of Queen *Elisabeth*, intituled, *An Act against Abuses in Elections of Scholars, and Presentations to Benefices*, he asks a Question, p. 291. *If the Presentee be neither Party to the Contract, nor privy to it, shall his Presentation be void?* *Answ.* "Yes; and so it is with Respect to the Patron. A *Simoniactal* Contract with the Friend or Wife of the Patron, is within the Statute; and where the Contract was between the Father of the Incumbent, and the Wife of the Patron, and neither Patron nor Incumbent knew any Thing of it, yet it was held *Simoniactal*. And, p. 294. he asks, *What Difference the Civil and Canon Law make between Simoniacus, and Simoniace promotus?* *Answ.* "If the Clerk is *Simoniacus*, Privy or Party to the Simony, he is to be deprived



" deprived of that, and for ever disabled to accept any  
 " other Benefice : But, if he is only *Simoniace promo-*  
 " *tus*, by *Simony* between two Strangersto which he was  
 " not privy, he is deprivable by Reason of the Cor-  
 " ruption, but not disabled to take any other." May I  
 add to this the Oath which every *English* Presentee takes  
 before his Institution, viz. " I do swear, That I have  
 " made no *Simoniactal* Payment, Contract or Promise,  
 " directly or indirectly, by myself or any other, to my  
 " Knowledge or with my Consent, to any Person or Per-  
 " sons whatsoever, for or concerning the procuring  
 " of, or obtaining of, &c. nor will at any Time hereafter  
 " perform or satisfy any Kind of such Payment, Con-  
 " tract or Promise, made by any other without my  
 " Knowledge and Consent." From all which I leave it to  
 the impartial Reader to judge, if I have erred in my Ac-  
 counts of *Simony*, or if the *Reconsiderer* hath given any  
 great Discovery of his Knowledge in that Affair.

He proceeds next to the Defence of his Darling Courts  
 of Correspondents, which, if the curious Antiquary re-  
 ferred to, found in the New Testament doing a very ill  
 Thing, no Wonder the *Considerer* find them doing some  
 bad Things. But, seeing the *Reconsiderer* will examine  
 into their original Charter, I wish he had done it in ano-  
 ther Way than in his few Queries, which may be di-  
 stinctly answered, and the Question may remain entire,  
*What is their original Charter ?* If he review his Que-  
 ries, they will not perhaps be found so distinct and judi-  
 cious as becomes an Author of his Penetration, who, not  
 satisfied with the most uncharitable and slighting Treat-  
 ment of the *Considerer*, must set up as a Censor on the  
 Judgment and Gravity of the Author of a Sermon late-  
 ly printed, with whom he dare not engage, and there-  
 fore he will scold and revile him at a Distance. A close  
 Engagement with one of the Author of that Sermon's  
 Merit, would have thrummed the original Charter of his  
 darling Court ; therefore he will keep off by a few Que-  
 ries, not Charter-like, because the Charter is too delicate  
 to be exposed to common View, or its Characters are too  
 dim to be legible without a new Edition.

Page 79. He asks, *For what End the Considerer gives these who joined with some Members of Presbyteries in executing the Commands of superior Courts, this new Title, if it be not to disgrace this Church?*

*Ans. Mr. Reconsiderer,* is this all you have to say at the first Instance for their original Charter, That the calling these Correspondents a darling Court, is a Disgrace to this Church? Truly, Sir, there are not a few of the true Sons of this Church of the Opinion, that such Courts are a Disgrace to this Church, by which many of her spurious Children chuse rather to spurn out her Bowels, than to regard her Rights and Liberties.

2. The Reconsiderer asks, *If this Title of a darling Court of Correspondents might not agree to a classical Presbytery?*

*Ans. 1.* If it agree to a classical Presbytery, which he saith hath escaped the Considerer's Censure, he should not have alledged, that I meant to disgrace this Church by the Title. 2. The Correspondency is not the Ground on which I presume any Quarrel with that new Court, but as it is an imposed Affair, prejudicial to the Liberties of the established Judicatories of this Church; and it must be a very darling Court to them who cannot in a regular Way get their Resolves executed.

But, says the Reconsiderer, p. 79. "I remit him to consult his Friend Voet, who calls them a Combination of Churches, corresponding for mutual Edification, and allows of extraordinary and transient Correspondencies, the likest Thing to the darling Court."

*Ans. 1.* I perfectly agree with my Friend Voet, as to the Definition of a Classical Presbytery, That it is a Combination of Churches corresponding for mutual Edification; But how far it is for mutual Edification, to take the Power of Ordination out of the Hand of a Presbytery, or to force Members upon them, I shall leave it to others to judge. 2. Voet. part. 3. lib. 1. cap. 2. gives us several Regulations of these Presbyterian Combinations and Correspondencies, that, applied to the darling Court, will rend its Charter; as, 1. *Ut intersit hæc combinatio, dirigendæ, conservandæ, promovendæ libertatæ ac potestati ecclesiasticæ singularium; non vero ut eam tol-*

*iat aut ledat. 2. Ne novum & peculiare regimen, aut pars aliqua integralis regiminis ecclesiastici, quod singulis ecclesiis jure Divino competit, huic correspondentiæ, aut convenientibus correspondentialibus tribuatur aut approprietur. 3. Ut habeantur per fraternas & liberas collationes consiliorum & suffragiorum, non per magistralia dictata. 4. Ut dependentia sit mutua & equalis, contra absint omnia monopolia, omnes Diotrephæon usurpationes.* From these Regulations of Voet's Classcal or Synodical Combination of Churches, we see, that all magisterial Appointments hurtful to the Liberty of Churches, so consociated, are to be avoided, as well as all Monopolies of Power, or *Diotrephes*-like Usurpations. Further, Voet tells us, *That the Power of these Churches, so consociated, is cumulative, and not privative.* I am afraid, if the *Reconsiderer* make not out a better Charter for his darling Court, than what he hath from Voet, he must even drop it. For, 3. Neither the ordinary Combination of Churches will do his Turn, nor Voet's extraordinary Correspondencies. That learned Man, in the same Chapter, Part, Book and Tract referred to, speaks of such Correspondencies as are between our Synods; *Correspondentiæ (uti apud nos vulgo vocari solent) sunt fraternæ communicationes inter duas aut tres classes vicinas, aut inter vicinas synodos provinciales libere susceptæ, aut observari solitæ, per unum aut duos deligatos, qui singulis conventibus classicis aut synodicis intersint.* Sure I am, the Charter of his darling Court is not to be derived from these; for these Correspondencies are by a free Susception, and not an authoritative Imposition. And tho' the *Reconsiderer* should think to find the Charter here; yet, alas! little could his darling Correspondents do: For you will observe how Voet hems in the Correspondents from other Presbyteries and Synods, allowing them only a deliberative and not a decisive Suffrage; See *Eccl. Pol. Vol. 4. Pag. 124. Eosque suffragiis deliberativis, non decisivis, quantum in se est adjuvent; deque gestis & statutis in illis conventibus ad suas quique classes & synodos referant.* I think such Correspondents would have hardly made some complain'd of Settlements effectual. Pag. 125. Voet speaks of another Sort of extraordinary Correspondencies, that I think will

will do the *Reconsiderer* as little Service for the original Charter of his darling Court, viz. *Consociationes quales sunt correspondentiæ extraordinariæ occasione transeunt, ut, E. G. Correspondentialis congregatio & associatio plurium ecclesiarum reformatarum per suos delegatos, cum ecclesiis Belgicis earumque delegatis in synodo nationali Dordracena.* 4. The same learned Author is of Opinion, that all these Correspondencies are for the Assistance of the Courts corresponded with, and not for taking the Power out of their Hands: For, says he, p. 127. *Non esse instituendam correspondentiam nisi ad melius esse ad abundantiorē cautelam, ad plura & promptiora auxilia.* I confess, p. 124. he speaks of extraordinary Classcal and Synodical Assemblies; but these are no Courts of Correspondents, they amount to no more as Synods or Presbyteries meeting *pro re nata*: His Words are, *Classē aliquam aut synodum extraordinariam in gravissimo negotio haberi posse, sed absurde diceretur illud esse ad unius atque alterius res suas agentis postulatū hoc concedendum esse.* We are yet at a Loss for the original Charter of the darling Court.

But the *Reconsiderer* judges himself so happy, in his 79th and 80th Pages, as to have found out a Passage in *Voet*, warranting his darling Court, viz. *Fieri potest ut deputati synodi vel classis ad hoc speciale negotium ex decreto classis, vel synodi executioni mandandum missi sint, quod non dicit gradum distinctum, sed delegationem particularem.* The *Reconsiderer* says, "By this Rule our Court will fall in with a Synod or Class, and must lose their new Title."

*Ans. 1.* Whatever Strength may be in the *Reconsiderer's* Quotations from this learned Man, he gives no Directions to the Page or Chapter where they are to be found, but hath left me to find them out in some Hundreds of Pages; but he hath been so unfair in many of his Quotations, that I have the more exactly searched them out. 2. I have shown that they come not in among *Voet's* extraordinary Correspondencies, and his Definition of Classcal and Synodical Correspondencies, or of a Synod and Class, which you have, Vol. 4. p. 119. viz. *Classicalis, seu Synodalis correspondentia est stata com-*



*binatio plurium Ecclesiarum sub certo regimine & correspondentia ad mutuam edificationem & conservationem,* cuts the Throat of his darling Court. 3. If our darling Court were a Synod, Class or Presbytery, then these they ordain are Members of that Synod or Class ; but, alas, they have not a Being longer than the Ordination is over: Therefore the Person ordained is left to obtrude himself upon the Presbytery, who had no Concern in admitting him to the Ministry ; and yet, upon the Disappearing of the new-fashion'd darling Court, the proper Presbytery must have the Ghost imposed on them : Yea, and tho' some of the Gentlemen so settled would claim a Right of Membership in the Presbytery, and sit there and judge others, he must not for some Time be accountable to them, but live under the Protection of his invisible Patrons, who, like troublesome Guests, become visible, when he cannot stand his Trial before his Presbytery. If the darling Court be a Synod, I hope, all the constituent Members of the ordinary Synod have a Right to be at it : But the *Reconsiderer* knows that this new-fashioned Synod is made up of pickt Men. But, 4. As to his Quotation from *Voet*, he tells us, *That the Words he quotes are an Answer to an Independent Objection, who had no Goodwill to the Government of Synods by Delegates or Commissioners.* I wish he had told us the Objection, or in what Place to have found it ; but this would have spoil'd the Sport : However I have found it out in *Par. 3. Lib. 1. p. 145. viz. Atque videntur stata & perpetua esse officia, E. G. Visitatorum, deputatorum eorumque collegia & conventus peculiari potestate & autoritate Ecclesiastica instructa.* Here it appears the Objection is against these call'd Visitors ; I hope, they will neither be called Synod or Presbytery. But, 5. If the *Reconsiderer* will insist, that these Visitors or Commissioners were the same with his darling Court, let him read *Voet* upon the Nature of their Deputation ; It was not to do what a Presbytery refused ; but what they were to do, was at the Appointment either of Synod or Class, without Prejudice of the Rights of any other whatsoever, as you see, *p. 146.* upon his Answer to the forementioned Objection, *Minister aut senior aliquis cum a synedrio mittitur ad de-*

nunciandum aut imponendum quid uni ex Collegis ministro aut seniori ; eo ipso non extollitur aut effert se supra conservum suum, aut introducitur nova & peculiaris potestas Ecclesiastica. Rursum singula membra Ecclesie cum præeunte synedrio, & cum eo, & quasi in eo excommunicant aliquod membrum, eo ipso non tribuunt sibi superioritatem aut potestatem dominantem in fratres suos.

By this we see what Sort of Delegates Voet speaks of, and what's the particular Commission ; he either speaks of these Churches who had Visitors, or of such Commissions as could be execute in the Name of the Court delegating. The utmost he can make of his darling Court is a Committee. 6. Voet, Par. 3. Lib. 1. Tract. 3. Cap. 8. p. 219. asks a Question, that may much illuminate the Matter, and shew how much he disliked Delegates clothed with a synodical Power, viz. *An præstet ut causæ contraversæ inter synedrium & ecclesias, aut intra ministerium & ecclesiam, aut synedrium ad synodum devolutæ per paucos delegatos synodali potestate instructos, quam ut ab ipsa synodo terminentur ? Resp. Post solutam synodum, ita ut ad eam stantem delegati illi referre nequeant, nego. Sin vero judicium delegatorum conciperetur stante synodo, ita ut vim sententiæ non haberet sine synodi approbatione, videtur quidem minus periculosum esse, non tamen credo præstare.* Now, tho' this respects Matters not so considerable as the Ordination of Ministers, we see how little the learned Man relieth that of Delegates clothed with a synodal Power. So that, 7. I think, these Things may obviate what the Reader considerer insinuates of Objections now-a-days made against the Commission of the Assembly : Which Courts, whatever may be excepted against them, all Circumstances duly considered, I am but using the Words of my Friend Voet, That it were better Matters were determined by an Assembly, than by Men clothed with an Assembly Power ; and that it was better for this Church when Assemblies met oftner than once in the Year, than now when there are Commissions set, not to the Satisfaction of a great and considerable Part of this Church. I blushed much when I observed the Assurance of the Author of *the Country Friend's Answer*, printed May 1726, al-

serting, *That the Commissions of Assembly have always been since the Reformation.* Surely they were not of so old a Date by thirty six Years; and the frequent Meetings of Assemblies in the Year, left no Occasion for such a Court. But, in a farther Enquiry after the original Charter of the darling Court of Correspondents, I will have Occasion to give a Hint at the Original of our Commissions.

Page 80. The *Reconsiderer* asks a third Question, *viz. Did any pretend to constitute this darling Court, who were not Members of Presbyteries, and actually invested with the Power of Jurisdiction?*

I answer him briefly, by asking him another Question, Did any pretend to join with the Diocesan Bishop in Ordination, who were not Members of Presbyteries, and actually invested with the Power of Jurisdiction? I think we are like now to come to something very like to the original Charter, and Nature of the darling Court.

In the same Page the *Reconsiderer* is aware that it might might be said, That the Members of the conjunct Meeting had no Jurisdiction at *Crimond*, some of them, yea the most of them, not being Members of the Presbytery; he asks, "By what Authority the Parish of *Crimond* is subject to the Jurisdiction of the Presbytery of *Deer* rather than any other? Hath not the Church of *Scotland* Authority to commission the Members of other Presbyteries to join with them, especially in Cases of Non-obedience by the Majority?"

*Ans. 1.* The Parish spoken of is under the Jurisdiction of the Presbytery of *Deer*, and no Jurisdiction or Authority below that of a General Assembly, is sufficient to make an Alteration. 2. Instances can be given of Conjunctions of Presbyteries by Synods, which have been annulled by the Assembly, they discerning it incompetent for Synods, or any Power in this Church below their own, to make such Alterations. 3. If Commissions of Assembly have a Power of altering the Jurisdiction of Presbyteries, they must be instructed by the Assembly, who established those Presbyteries, for this End; but we never find our Commissions so foolishly instructed, as to have a Power of altering the Decrees of Assemblies, or  
the

the Jurisdiction of Presbyteries established by them. 4. The conjunct Meetings, or darling Court, take away the Power of Presbyteries, and so they will fall short of these reasonable Correspondencies, of which *Voet* speaks, which are for mutual Edification. 5. These new-fashioned Appointments, in no Propriety of Speech, can be called Correspondents, according to our common Acceptation of Correspondents, tho' their Authors give them that Name: Correspondents, in our common Acceptation, suppose a Court to correspond with; if the Presbytery oppose, with whom do they correspond? Is two or three of a Presbytery the Presbytery? So that, if the Minority of a Presbytery in Conjunction with these Correspondents settle a Parish, the Parish, so planted, is removed from under the Jurisdiction of the Presbytery, and becomes the Care of them who are no established standing Ecclesiastick Court. 6. I have before observed from *Voet*, that the Combination of Churches, and their Correspondencies, ordinary and extraordinary, were cumulative, and not privative; and yet the *Reconsiderer* knows, that, when the Character of one of his Confederates was in Hazard, the Power of Enquiry and Judging is taken out of the Hands of the Presbytery of which he was a Member, and put into the Hands of the darling Court: I think, this was a privative Power, the Reverse of all our Discipline, altho' the Presbytery themselves had formally been the Libellers, which they were not. 7. As to the Parish of *Crimond*, the Words of the Assembly 1730, in remitting that Affair to the Commission, are, *That they judge, and finally determine in any Appeal or Reference that shall be brought regularly before them.* But is there any Thing here warranting the Taking the Power out of the Presbytery's Hands, and the Giving it to them who are none of the Judicatories of this Church? I with the *Reconsiderer* would shew us, when, or where, the Assembly did ever impower an inferior Court to establish a new Jurisdiction. The Commission in *August* 1731 appoint a darling Court to settle the Parish of *Kinnross*, when it will not be pretended that these unwelcome Guests had the Concurrence of the Presbytery of *Dunfermline*. Is there any such Thing in the Remit of



that Affair by the last Assembly to the Commission? 8. Presbyteries, who have had their Jurisdiction and Power taken away by such Appointments, have been Complainers, and have entred Complaints to the ensuing Assemblies against such Appointments. The Pleading upon the Commission's final Power will not do here, especially if it be considered, that they had no Warrant to appoint Powers and Jurisdictions privative of the Presbytery's Power. 9. It is to be observed, that, in the Commission's appointing such Correspondencies, they have gone from one undue Step to another, still worse and worse. In the Correspondency for settling *New-machar*, the Commission, in *August 1729*, did appoint such indeed as were Members of the Commission, tho' not these who lived nearest to that Parish, and so most capable to judge of the Condition thereof: The nearest would not perhaps been worthy of that irregular Trust; therefore, to secure a Number of faithful Trustees, some of the Correspondents must be from other Synods. But now the Commission hath advanced a Step further; several of the Correspondents for settling of *Crimond*, were not Members of that Commission. Now, tho' the Commission's Powers of appointing the darling Correspondencies were otherwise good, let the *Reconsiderer* tell me, by what Authority they appoint such as are none of their own Number, when they are not specially instructed for that End?

Page 80. The *Reconsiderer* again asks, *Have not National and Provincial Assemblies as much Authority over Classical Presbyteries, as Classical Presbyteries have over the Congregational?*

*Answer.* 1. What then? tho' I come to your Hand in this, will this either constitute the Charter of the darling Court, or put me out with my Friend *Voet*, who no more forsakes me on this Subject, than he hath done on the Head of Patronages. 2. Will it follow, that Commissions have the same Authority with Assemblies and Synods? The Commission's Authority is limited to Particulars referred to them, and beyond that they have no Authority over Synod or Presbytery. 3. Altho' superior Courts have Authority over inferior, yet this is a regular

and

and definite Authority. Presbyteries have Authority over Sessions as far as their Authority goes, but they have not the Authority of a Synod; Synods have Authority over Presbyteries, but they have not the Authority of an Assembly: So that from this Subordination it will not follow, that a Synod may appoint what an Assembly may appoint a Presbytery to do. An Assembly may unite or disjoin Presbyteries, so may not a Synod, because the Assembly at first established them, and therefore no Power below that can regularly make an Alteration. 4. As to the coercive Power of Judicatories, I wish the *Reconsiderer* had explained it. In Matters generally agreed upon, the coercive Power may be exercised the more smartly; but, in Matters controverted by Judicatories, it hath been thought expedient to handle that Matter tenderly: And, even in Matters generally agreed upon, particular Members may protest, without Hazard by the coercive Power, unless Judicatories will oblige to a blind Obedience, whether People will or not. This *Voet* directs to; so that the *Reconsiderer* will make nothing of his Quotation from him, concerning coercive Power, or the original Charter of his darling Court of Correspondents.

Page 81. He brings in some now-a-days, as thinking, *That nothing can be done but by the Presbytery of the Bounds as to Ordination and Admission; yet some reformed Churches managed their whole Discipline without them, by Annual Synods; and the Church of Scotland for upwards of twenty Years after the Reformation, without Classical Presbyteries, &c.*

*Ans.* 1. I see no Harm in it, tho' it were the commonly received Opinion, That where there is a Church constitute by Assemblies, Synods and Presbyteries, that nothing should be done in Ordination and Admission but by the Presbyteries. 2. Altho' this Church, and other Churches, ordained and admitted Ministers in another Way, when there were no established Presbyteries, it will not follow, that after they are got duly established, that the Power and Jurisdiction lodged in their Hands should be taken from them. 3. The *Reconsiderer's* Instances from the Practice of this and other reformed Churches, when

when they had not established Presbyteries, will not support him in this Matter : They who then ordained Ministers were standing and established Powers, till a more near and immediate Jurisdiction should be got established ; But our darling Correspondencies have no settled Jurisdiction, they are a flying Squadron, but no regular Troops. 4. The Powers in this Church and other Churches, who ordained Ministers, were only for Want of Presbyteries ; but the flying Courts invade the Jurisdiction of Presbyteries. 5. It seems very inconsistent with the Nature and Freedom of Society, that Members should be imposed upon a Presbytery without their Consent ; if that cannot be had, either let the Assembly annex the Parish to another Presbytery, or make two Presbyteries of one.

Now, altho' the *Reconsiderer* in a very scurrilous Manner reflects upon the worthy and learned Author of a Sermon lately printed (to use some of his own Words) his Remarks are neither so judicious and grave, as to give a good Account of the Pedigree and original Charter of his darling Court; which Presbyterians, and such as resolve never to turn *Jacobites*, do judge irregular in a duly established Church. If the professing to be a Presbyterian, and the promising never to turn *Jacobite*, do offend the *Reconsiderer* equally with Remarks upon his darling Court, the *Considerer* cannot help it, being well perswaded that nothing hath a more direct Tendency to overturn Presbytery, and introduce *Jacobitism*, than illegal and arbitrary Proceedings either in Church or State.

The *Reconsiderer* having failed in giving a good Account of his darling Court, after I have laid down some Principles, which I hope will be found agreeable to the Constitution of this Church, I shall make an Enquiry after their original Charter, and then leave it to the Readers to judge who hath made the best Derivation of their Pedigree.

1. According to the Constitution of this Church, there is a Subordination of Judicatories, each Court meddling with its proper Work ; and each Court in every Thing hath not the same Power,

• Tho'

2. Tho' Synods have Authority over Classcal Presbyteries, this Authority is not the same with that of a National Assembly ; nor can a Synod, in vertue of their Authority over a Classcal Presbytery, appoint what is competent for a National Assembly, our supreme Ecclesiastick Court.

3. These Ecclesiastical Courts may give Commissions concerning particular Affairs, so far as is competent for a Committee or Commission of these Courts to manage ; but they are to have no Capacity either of wresting the Jurisdiction out of the Hand of the stated Judicatories of the Church, or of meddling in a decisive Way with what is competent for these Judicatories.

4. The Subordination of Judicatories is the Foundation of References and Appeals, till the Cause be brought to the last Judicatory, where the Matter takes End, and is not again to be opened; else we should go into Confusion, and there should be no determinate nor certain Government.

5. In the Matter of Appeals, it appears highly reasonable, that Execution should sist till the Appeal be discusst, especially where the Executors are Appellants ; for the putting the executive Power into the Hands of others, during the Dependence of an Appeal, is privative of the Judicatory appealing their Right and Privilege. I am sure this was once the Opinion of the *Case-Writer* or *Reconsiderer*, That Appeals should sist present Execution.

6. Whatever Trust and Power be given to Commissions of Assembly, if Presbyteries or Synods enter Complaints against their Decisions, such Complaints ought or sist Execution, till the Commission be either approven or disapproven : For, altho' it be pleaded, That the Decisions of Commissions are final, not to be opened or reversed by Assemblies, there is one Thing I think all will agree in, that the Finality or Irreversibility of their Sentences respects only the Thing remitted to them ; for, if they go beyond their Powers, such a Deed is reversible : And I should think it highly reasonable that there were Appeals from Commissions to Assemblies, if their Appeal turned upon the Commission's



on's going beyond their Instructions. But here it is needful to observe, That the Commission hath general and particular Instruction ; their general Instructions are, that they act agreeable to the Acts and Constitutions of this Church ; the particular Instructions respect the Causes remitted to them. Now, if, in a particular Cause remitted to them, they go beyond their Instructions, there is here a Foundation of Appeal, because they pretend finally to determine in what was not committed. And, as to the general Instructions, if they determine contrary to the Acts and Constitution of the Church, it ought to be reversed, both as a Breach of Instruction, and as materially and in itself unjust and unlawful. It is staring Nonsense to say, That the Commission's Sentences are irreversible by the Assembly, when they have gone beyond their Instructions, whether general or particular : Therefore, upon Complaints duly tabled, Execution should sist till the Complaint be heard before the Assembly, to whom the Commission is accountable for the Execution of their Trust ; which, if it took Effect, as in Justice it ought, it would nullify the modern Charter of the most of our darling Courts of Correspondents.

7. It is only competent in a National Church, that the National Assembly make new Erections of Presbyteries and Synods, uniting or disjoining, as shall be thought most needful and convenient. Synods and Presbyteries bear such a Relation to one another, that they should be established by the most common and general Consent, which only is to be had in the National Assembly, the last Judicatory of the Parishes, or Judicatories consociated into one National Church.

8. In Consequence of the former, there should be no Extent or Diminution of the Jurisdiction of Presbyteries, but at the Appointment of them, or of the general Court that established them.

9. Presbyteries who cannot in Conscience execute the Sentence of an Assembly itself, in the Ordination or Admission of a Minister into the Pastoral Office, in one or other of the Parishes consociated with them, are not to be in that Case imposed upon by the Interposition of a flying Committee, which evanisheth with their Performance.

And

And it seems equally unreasonable, that any should be a Member of a Society, contrary to the Will and Inclination of the Society.

These Things, I hope, will not be found disagreeable to our Constitution, nor to common Reason or Equity ; which allowed, we are yet to seek for these Correspondencies that deprive Presbyteries of their Jurisdiction and Power.

I know it will be here said, That, if Assemblies may not oblige Presbyteries even to admit into their Society Men disagreeable to them, nor that Acts of Admission or Ordination are to be performed by conjunct Meetings, Committees, or Correspondencies, when Presbyteries are disobedient ; What becomes of the Authority of Assemblies, and the Subordination of Judicatories ?

*Answ.* 1. I hope the *Reconsiderer* is more of a Protestant, than to extend the coercive Power of superior Ecclesiastick Assemblies, as if the inferior Courts behoved always to obey. Councils and their Decisions are not infallible Rules, and only in a secondary Way bind Conscience ; so that, when the primary Obligation is not so clear, or is called in question, the secondary one ceases. But, 2. Altho' a Presbytery should not have Freedom to execute the Commands of a General Assembly, that general Court can fall on Ways to make their Sentences effectual, without introducing such temporary Powers, or taking away the Power and Jurisdiction of Presbyteries : As I said before, they can annex the Parish concerned in the Ordination or Admission to another Presbytery, or they can erect a new Presbytery, making two of one ; a more reasonable Way by far than our conjunct Meetings, 1. Because in this Way Presbyterial Jurisdiction is not taken away. 2. There is an established Court to ordain the Minister, and to keep him and his Parish under their Inspection : Whereas the darling Correspondencies evanish the Day of Ordination or Admission ; so that some of them they ordained have not been brought under the common Obligation of signing the *Formula*. So that we see how loose they are left, who are put in Orders by these flying Courts.

It is of the most dangerous Consequence to this Church, that such Committees should be appointed for Ordination of Ministers; that the Power should be taken out of the Hands of them who have the Inspection of Parishes, and so the nearest Access to know their State, and should be put into the Hands of them who know not the State of Parishes, and whose Jurisdiction is but *pro re nata*, who, upon performing their flying Commission, cease to have any Power over him they have ordained, or Inspection of that Parish.

Again, seeing such flying Correspondencies are neither a Synod, a Classial Presbytery, nor an Assembly, the best that can be made of their Charter is but a Committee. Now, hath it been the Practice of this Church, in her better State, to give Committees a Power of Ordination? No, it hath not. If such a Power should be given them, that Power should be ratified by the Court committing; so that the Man ordained by the Committee, stands not confirmed in his Orders, till the Committee be approved by their Constituents. I would ask the *Reconsiderer*, If it would be agreeable to the Acts and Constitution of this Church, that a Presbytery should appoint a Committee of their Number to ordain a Minister? And, if it be both dangerous and disagreeable, that a Presbytery, who are a radical Court, should appoint a Committee of their Number to ordain; is it not much more dangerous, unreasonable and inconvenient, that the Commission of the Assembly, who themselves are but a grand Committee, and not one of the ordinary established Courts of this Church, should appoint a Committee of their Number to ordain; especially considering, that several of the Members of such new-fashioned Committees are not under the Jurisdiction of the Commission or Grand Committee of Assembly?

No Doubt, a Society of Presbyters, in *Ecclesia constituenda*, or in a troubled State of the Church, may perform an Act of Ordination; yet, as Ministers are not to be thrust in on Parishes against their Will, so neither on Presbyteries against their Wills: And, in an established Church, the Ordination of a Minister, and thereby the  
fixing

fixing his Relation to a Parish, should be by a standing and established Judicatory, to which he must bear Relation, as well as to the Parish.

I know the *Reconsiderer* hath told us, *That such Ordinations are made by Presbyters who have actual Jurisdiction.* But, what will this distinguish it from Prelatical Ordinations by the Bishop and the Presbyters he calls to his Assistance? The Commission will not have Patience till the Complaints of Presbyteries be discussed, and therefore they will accomplish their Work by Presbyters here and there. I am afraid, if such Practices continue without Redress, the Bishops may relieve the Commission of the Trouble of such Appointments.

The Unwarrantableness of such Ordinations I might shew from ancient Practice: Take only the following Instances;

In the second Council of *Aries*, Anno 451, a Canon was made, *That no Bishop should be ordained, but by three Bishops of the Province, all the rest being warned to come:* But, in our flying Courts, others as the Bishops of the Province are appointed, and all the Bishops of the Province have not Warrant to come. By another Canon they order, *That the Bishops of the Province shall name three, and leave it to the Clergy and People to choose one of these three.* But, in the Case complained, there is no such Privilege; no, not for the Presbytery of the Bounds, let be for the Bishops of the Province.

In a Synod at *Auvergne*, Anno 535, they decreed, *That a Bishop should be raised by the Choice of the whole Body, and not by the Favour of a few; and the Election of the Clergy and Citizens are necessary.* Anno 538, it was decreed in a Synod at *Orleans*, *That a Metropolitan should be chosen by all the Bishops of the Province, with the Consent of the Clergy and Citizens, because he who is to be set over all, is to be chosen by all.* So that, whatever Domination crept into the Church, the Argument for the Freedom of Election is not weakned, but supported; we may argue from the greater to the lesser.

In the fifth Council of *Paris*, Anno 615, it was decreed, *That Bishops should be elected by the universal Consent of the whole People and the neighbouring Bishops;*  
if



*if any were otherwise ordained, they were to be deposed, and they who ordained them suspended for three Years.* I am sure, this is far different from the Method in our extraneous Committees.

Anno 649, a Synod at *Chalons* renewed the former Canons of Elections by the Bishops of the Province, the Clergy and the People.

All this Time we are to seek for the original Charter of the darling Court of Correspondents: But, if the *Reconsiderer* had not been ashamed of their Original, he might with less ado have found out their Charter; only it is of such an obsolete Date, that People who are not in Fancy with the darling Court, will perhaps plead Prescription: But, if Prescription may not be admitted by the *Reconsiderer*, he will allow to put in another Defence, which would nullify any other Charter, viz. That it was drawn and given in prejudice of a preferable Right.

After an Assembly Anno 1596, *Calderwood* tells us, *Here end the sincere General Assemblies of the Church of Scotland.* Before which Time it is not refused but there were Commissioners appointed for some incident Affairs, *pro hic & nunc*; but that before this Time there was a standing Court clothed with a final Power, or an Assembly-power, appointed to meet at such and such Times as afterwards obtained, I apprehend the *Reconsiderer* will find himself nonplus'd if he attempt the Proof. When there were any particular Commissions for now or then, they were not stated, but were only either to present to King or Parliament Articles agreed upon in Assemblies, or to prepare Matters for the Assembly: Any of our Judicatories may appoint such Committees of their Number, but I hope here is no decisive, finally determining, or judicative Power. It is also true, that, before Presbyteries were erected, there were Commissioners appointed to see to the planting of Churches, who were not transient Committees, or flying Correspondencies, but stated Powers, having the Care of Parishes, till a more established Method, such as Presbyteries, should obtain. But, to use *Calderwood's* Words, till the End of the sincere General Assemblies of the Kirk of Scotland, the *Reconsiderer* will oblige me much, if he will show me where Committees

mittees or flying Correspondencies were appointed to settle Churches, where Presbyteries were erected, or where before this Time there was a stated yearly Commission of Assembly, instructed with a finally decisive and judicative Power. If the original Charter was drawn when the sincere General Assemblies of this Church ended, there have been less considerable *Æras* as the Date of that famous Charter, which never could obtain as long as this Church continued in its sincerer and purer State.

Before this Time, our Assemblies had strenuously wrestled to maintain their Right of Meeting, whether indicted by the King or not, and so they met frequently in the Year ; but, from the Year 1596, the new established Commission do almost all the Assembly-Work.

The Original therefore of our Commissions, together with the *Reconsiderer's* darling Correspondencies, bear Date at *Dundee, May 16, Anno 1597*, bearing, " That " seeing, through the Shortness of Time, there were sundry Matters of Weight and Importance, not only concerning particular Flocks, but also what did concern the whole Body of the Kirk, which could not be commodiously treated and concluded in the present Assembly ; therefore the Assembly hath given and granted full Power and Commission to the Brethren underwritten, &c." Only 'tis here to be observed, That, tho' these original Commissions were in Effect the same Thing with the *Reconsiderer's* darling Court, and appointed for Ends of the same Kind ; yet they had this Advantage, the Authority of an Assembly : Whereas the Appointments and Correspondencies complained of, are but Committees of Synods, and, what is worse, of a grand Committee, namely, the Commission.

Here is the Original both of our Commissions and of the *Reconsiderer's* darling Court, upon which he may say, Where's the Fault ?

*Ans.* If he will allow me, I may observe, 1. That, as long as the Church enjoyed her Liberty of calling Assemblies when they pleased, such Commissions had no Being, nor were needful. I hope the *Reconsiderer*, as well as his beloved Confederate the *Country-Friend*, will remember this was Thirty six Years after the Reformation.

2. I may observe, That, when the sincere Assemblies of this Kirk took End, such Commissions began. But, 3. I shall give *Calderwood's* Remark on the appointing of this Commission; if there be any Thing in our Day to which his Remark in any Part of it would agree, I leave it to the Reader to judge. He tells us, *p. 409.* ‘ In a Manner “ the whole Power of the General Assembly was weakned “ by this Commission; for the Commissioners, having Ac-  
 “ cels to the King when they pleaded, began soon to  
 “ change their Manners; they would rule all both in and  
 “ out of General Assemblies; a fit Wedge taken out of  
 “ the Kirk to rent her with her own, and the very  
 “ Needle which drew in the Thread of Episcopacy.”

*Calderwood, p. 411. and Petrie, Part 3. p. 541.* tell us, “ That in *June* following this Commission met with  
 “ the King at *Falkland*, and reduced the Sentence of De-  
 “ position pronounced by the Presbytery of *St. Andrews*  
 “ against *John Rutherford* for Nonresidency; and in  
 “ *July* removed *David Black* out of *St. Andrews*, and  
 “ placed Mr. *John Gladstones*, afterwards Bishop, in his  
 “ Room, without Advice or Consent of the Presbytery.”  
 I think this looks like the Appointments of our darling Committees, by whom Presbyteries are overlook'd, and Ministers settled in their Bounds without regard to their Advice or Consent. The same Commission displaced *Robert Wallace* another Minister there, because he had spoken against *John Lindsay* Secretary; and this they did against the Will of the Presbytery, alledging, *That this Commission had not Power to take away any Action from them which was in Process, and not decided.* I think the *Reconsiderer* will allow this last Instance to be the likest Thing in the World to the Powers given to a Committee of the Synod of *Aberdeen*, to judge in what related to the Conduct of One afterwards settled by the darling Court, when the Presbytery, of which he was a Member, objected, as justly as did the Presbytery of *St. Andrews*, that the said Committee had not Power to take away any Action from them, which was in Process, and not decided.

*Calderwood* further lets us see, that this new Commission were disagreeable to the Ministers in *Lothian*, they being

being appointed to settle the Churches in *Edinburgh*: Notwithstanding there was there an established Presbytery to whom this Work did properly belong; Yet, for all their Complaints, the new Commission or darling Court were appointed by the Assembly 1598 to settle the Kirks of *Edinburgh*.

As I am sorry that our Commissions have not a better Original, and that the Likeness should be so great between the Proceedings of Commissions now and these; so I think I have come nearer to the original Charter of the *Reconsiderer's* darling Committees and Correspondencies, than what he hath done himself; and he will be so good as to carry this *Memorandum* along with him, That the original Charter of his darling Court, was the Needle which drew in the Thread of Episcopacy.

It is to be observed, That the *Reconsiderer* hath not meddled with the Proof of active Countenance given to Presentations in the Instances of *Hutton*, *Rensfrew*, and *Cushny*.

Page 81. he proceeds to the *Considerer's* fourth Instance of active Countenance to Presentations, as in p. 25. of the *Right*, viz. When it is thought criminal to confute the Right of Patrons on any publick Occasion, or so much as to prescribe it to a young Man passing Trials; *Num jus patronatus sit ullo modo licetum in Ecclesia Dei?* which Prescription was found Fault with in a certain Presbytery, and some were pleased to vote, *Not sustain the Discourse*, because the Candidate had asserted the Right of Patronage to be noway lawful.

Upon this the *Reconsiderer* remarks, *That it is hard to conceive how a Thought can give active Countenance.* To which I answer, That, as long as we are to judge Men as speaking what they think, we may say, that he who is offended with the Condemnation of Patronages, thinks they should not be condemned. If the *Reconsiderer* be offended for judging of his Thoughts by his Words, I ask his Pardon for this Error, and promise afterwards to correct this Stile, and shall say, That, tho' the *Reconsiderer* speaks so and so, the World is not to be so impertinent as to conclude that he thinks so.



The *Reconsiderer* again observes, *That he thinks this Instance not worth the Confutation.* By which he must mean One of Two, either that it is not unlawful to give active Countenance to Presentations, or that the condemning a Confutation of the Patron's Title is no active Countenance: Whichsoever of them he mean, either of them rebound too heavy upon him without my Remark.

After the *Reconsiderer*, with all his Shifts and Evasions, hath gone about the Bush a long Time, he at last has landed in a very active Countenance to Patronages: For, says he, *Some Persons give such active Countenance to Patronages, as to think it prudent on publick Occasions to say very little of them.* On which I may observe, that our General Assemblies in 1712 and 1715, who met not in a Corner, thought it no Derogation from their Prudence to testify against that usurped Title: So that I think the Prudence, Policy and Principles of these Years, will support the Terms in which the Question *de jure patronatus* was prescribed, tho' it cannot hold it out against the Prudence, Policy and Principles of the *Reconsiderer* and his Confederates, who are so much disposed on publick Occasions to say so little of them, by which I suppose they mean to say little against them; and it were earnestly to be wished, that, on publick Occasions, they would not say so much for them.

The *Reconsiderer* concludes his Performance, as he says, with a few Sentences of a learned and reverend Member of this Church: Who he is, I may not ask; but, with all due Regard to his Learning and Reverence, he might have expressed himself more agreeable to the Regard due this Church, and the Privileges of a free-born *Briton*.

The Substance of the Quotation is, "That, since we  
" are a Church founded upon standing Laws, and since  
" we have accepted a Share in the Government of that  
" established Church, and of other Advantages enjoyed  
" by these Laws; let us act as these, who think the Estab-  
" lishment as it stands; a considerable Favour, notwith-  
" standing of something we could wish to be rectified."

A great many Things might cast up in remarking on the Words of this Mr. *Reverence*: I shall satisfy myself with the following; As, 1. If his Reverenceship would  
not

not be offended, I am not able to knit the one Part of his Sentences with the other. He says, *We are a Church founded upon standing Laws* : That is most certain, and the Union-Treaty secures our Church-privileges, and his Majesty is not fully invested with his Sovereignty, till he have taken an Oath for Defence of this Church ; and yet the reverend Gentleman would have us looking upon our Establishment as a Favour : A great Favour through the Mercy of God ; but, is it a Favour at the Hands of the Government ? This is Stile for a Court-Flatterer, but not for a free-born Subject, who can claim his Privileges in Point of Justice, as well as the Sovereign can claim our Allegiance ; and this is the Mercy of our excellent Civil Government. 2. We have accepted of a Share in the Government of the Church, as the same is established by Laws ; But, what says that to the Affair of Patronages ? I hope the Laws ratifying our Church-Government, have no respect to Patronages, the Act restoring them being an Encroachment on the Union-Security ; As witness the Testimonies of our Assemblies 1712 and 1715. I know not who the Mr. *Reverence* is, but his Words, as applied by the *Reconsiderer*, would have us behave as if we were a tolerated and not a legally established Church. 3. The last Sentence from the reverend anonymous Doctor gives Umbrage, when he taxes them who greedily accept of all the Advantages, but will submit to none of the Inconveniencies. Upon which, I shall only say, That we ought heartily, as honest Churchmen and free Subjects, to maintain all our legal Privileges, and, as becometh both, contend against all the Encroachments upon our legal Establishment, which the Law restoring Patronages is, and hath ever been so counted by all the true Sons of this Church, till some of her unnatural Children began to teach otherwise. But I proceed to another Chapter.

## CHAP. V.

*Wherein is shown, That, by the Law restoring Patronages, their Title is more rigorously supported now, as from the Reformation to 1649, that they were abolished: Yea, more rigorously established now, excepting a few Instances, not to the Credit of the usurped Title, than by the Laws from the Reign of Justinian, to the Time of the Concordate, which also met with great Opposition.*

SOME may perhaps alledge, that I have taken too much in Hand, considering the many Corruptions and tyrannical Usurpations that obtained in the Church both *East* and *West*, long before the fifteenth Century; and considering how much the right Method of electing Bishops and Pastors was changed, and what Encroachments were made on the Freedom of Elections. But I premise a few Things;

*First*, The Question is not, If Patronages did obtain, and were, for now or then, more or less rigorously exercised? this cannot be refused. But the Question is, If, from *Justinian's* Time to the fifteenth Century, Elections of one Kind or of another, did not obtain both by Practice, the Decisions of Councils, and, generally speaking, under the Authority of Civil Powers.

*Secondly*, The Question is not concerning the Manner of Electing in the Time under Question, that came often to be wretchedly changed and involved; but, If, notwithstanding of Patronages and Presentations, Elections did obtain, and were generally authorized by the Civil Powers? This will be maintained; and yet the Church look on the Patronages of these Times as grievous: Which differs much from the Opinion of the *Reconsiderer*, who, under Pretence of Elections obtaining  
now,

now, would look on Presentations as an instituted Right, generally thought convenient for securing a Minister's Title to his Stipend.

I now proceed to show, that Patronages and Presentations are more rigorously asserted, supported and established now, than by any Law from the Reformation to 1649 that they were abolished: Yea, and more rigorously, excepting some complained-of Instances, as from the Reign of *Justinian* to the Time of the Concordate, which also met with great Opposition.

*First*, For the Proof of this, let us take a View of the Act *decimo Annæ* restoring and establishing Patronages; In which, not only the Patron's Right to present to the Church and Benefice is established, but the Act of Parliament ratifying the Congregation's Right to elect is repealed. The Words of the Act are, *That whereas the Method of electing Ministers to Churches, according to the Act 1690, had occasioned Heats and Divisions; therefore Patrons are restored to their Right of Presentation to Churches and Benefices, and the foresaid Act 1690 is hereby repealed.* Will any after this say, That by the Laws of the Land the Right and Freedom of electing Ministers doth now subsist? And, for the Church's active Countenance to Presentations, I refer to the Instances condescended upon, and to more that might be given, of which this Church and Land cannot be ignorant.

Now, if I prove, That Elections, both by Law and Practice, did obtain from the Reformation to 1649, without such active Countenance by the Church, or rescissory Act from the Magistrate, the first Branch of my Undertaking is made good.

I have already shown in many lamentable Instances, how much now-a-days Patrons are gratified by Church-decisions, and by the Obtrusion of Presentees upon an unwilling People; and I have put the *Reconsiderer* and his Confederates to it, if they can condescend upon any Instances of the Practice of this Church from 1567 to 1649, that they so far countenanced the Patron, as to thrust in the Presentee against the Will of the Congregation: If any such Thing was done, did it not rather meet with the Discountenance than the Support of this Church?



From the Reformation to 1649, do not our Standards and Acts determine and maintain the Right and Freedom of Elections? and yet all this Time the Patrons claimed their usurped Right. See first Book of Discipline, *Chap.*

4. Ordinary Vocation consisteth in Election and Admission; it appertaineth to the People, and every several Congregation, to elect their Minister, and no violent Intrusion is to be made on Parishes, without the Votes and Suffrages of the People. Second Book of Discipline, *Chap.* 3. § 9. In this ordinary Election, it is to be eschewed, that no Person be intruded into any Office of the Kirk, contrary to the Will of the Congregation: And, *Chap.* 12. § 9. So as none be intruded upon any Congregation, either by the Prince, or any other inferior Person, without lawful Election, and the Assent of the People over whom the Person is placed. The Assembly 1562, Sess. 3. inhibit all and sundry Persons serving in the Ministry, who have not been presented by the People. The Assembly at *Perth*, 1597, doth forbid the chusing of Ministers without the Consent of their own Flocks: And the Assembly 1638, That no Person be intruded into any Office of the Kirk, without the Consent of the Congregation." And the Assembly 1642, when they could not get Patronages abolished, take Care that none be presented, but such as are agreeable to the Congregation. All these put together, show how much the Freedom of Election did obtain, and how careful the Church was to maintain free Elections, without violent Obtrusions on Congregations.

Perhaps the *Reconsiderer* will say, *That, tho' the Church was at these Times so minded, yet the Laws as rigorously supported Patronages then as now.*

*Answe* 1. The *Reconsiderer* then must at least grant, that the Church in these Periods never gave Way to the Thrusting in of Ministers on Congregations because they were presented, which is done now. Neither, 2. Is he able to make it appear, that in the Time referred to there was any Act of Parliament like that 10mo *Anna*, restoring *Patronages*, repealing the Congregation's Right to elect, and putting that into the Hands of the Patron. 3. According

cording to *Spotswood*, tho' the Commissioners of the Estates, who conferred with the Commissioners of the Kirk, did not agree to sundry Articles of the *Book of Policy*, yet they agreed to these, *That no Person be intruded into any Kirk without the Will of the Congregation; and that none be intruded upon any Congregation, either by the Prince, or any other inferior Person, without lawful Election, and the Consent of the People over whom the Person is placed.* 4. The King himself proposes to the Assembly at *Perth*, Anno 1597, *That in all principal Towns, Ministers be not chosen without Consent of their own Flocks.* And, by the Third of the King's Questions that same Year, *The Consent of the most Part of the Flock is thought needful in the Election of Pastors.* 5. By the 7, 8, 9. Acts of *Charles I.* Parl. 2. *Kirks are to be planted with the Consent of Parishes, and without Prejudice of the Interest of Parishes and Practice of the Kirk since the Reformation; and Churches are to be planted upon the Suit and Calling of the Congregation.* We see these Acts refer to the Practice of the Kirk since the Reformation; a clear enough Intimation that this was the Practice since the Reformation.

The second Branch to be proven is, That the Act *10mo Annæ*, establishing Patronages, is more to the Prejudice of Elections, excepting a few Instances not to the Credit of the Patron's usurped Title, than the Laws from the Reign of *Justinian* to the Time of the *Concordate*, which met with great Opposition.

The *Reconsiderer* may the rather receive the Proofs of this, that they shall be from the Writings of two Men, not Enemies to Patronages. The one is Bishop *Burnet*, in the laborious Collection in his Book, intituled, *The Rights of Princes in the disposing of Ecclesiastical Benefices.* The other is that learned French Doctor, *Du Pin*.

The Bishop, in his elaborate Performance, p. 81. tells us, " That *Justinian*, Anno 518, made a Law soon after his coming to the Empire, concerning the Election of Bishops, viz. That upon a Vacancy the Inhabitants of the City should make a Decree for three Persons, that so the most deserving of these might be ordained

“ dained: But he does not in this Law declare who  
 “ shall choose the Person out of the three.” But the  
 Bishop tells us, *p.* 84. “ That, *Anno* 541, he explains  
 “ these Things that were not determined in the first  
 “ Laws which he made about Ordination, *viz.* The Cler-  
 “ gy and chief Men of the City were to make a Decree  
 “ for three Persons, having first made Oath, That they  
 “ did it neither for Money, nor the Promise of it, &c.  
 “ If they had not three, then two, or but one in the De-  
 “ cree, who were to be named by the Metropolitan.”  
 And for a further Evidence, that by *Justinian's* Laws  
 Elections did obtain, notwithstanding of Patronages, he  
 tells us, *p.* 86. “ That by another Law he renewed  
 “ what he formerly commanded concerning the Ele-  
 “ ctions of Bishops; and to the former Provisions he ad-  
 “ ded this, That the Person to be ordained should sub-  
 “ scribe to the Faith, and swear, That he had neither by  
 “ himself, or others, given or promised any Thing, or  
 “ was to give any Thing to him that ordained him, or  
 “ to those who gave their Voices for him.”

It is true, the Bishop tells us, *p.* 87. “ That the  
 “ Greek Emperors after this did generally promote Bi-  
 “ shops to the greater Sees by Recommendations; so  
 “ that the Choice of one out of the three came to depend  
 “ wholly on the secret Notice the Emperor gave to the  
 “ Metropolitan, which made some later *Greeks* think,  
 “ it was the Emperor who named the Person; but in  
 “ that they mistook what was done by a secret Intimation,  
 “ for a publick Act of the Emperor; but the established  
 “ Form of Elections was for the most Part kept up.”

*Page* 88. he tells us, “ That, when the *Greek* Wri-  
 “ ters intend to magnify a Bishop, they generally set out  
 “ his Election as made by the Clergy and People; and,  
 “ where they reproach him, they ascribe his Promotion  
 “ merely to the Emperor's Favour.”

It is not refused, but Princes then did very often in  
 their Practice usurp what did not belong to them in the  
 Elections of Pastors; but we find, that *Anno* 787, in the  
 Reign of *Constantine* called *Copronimus*, the second *Nicene*  
 Council made a Decree, *Annulling all Elections by*  
*Princes; and they cite for this the 38 Canon, called*  
*Apostolical,*

*Apostolical, and the Canon of the first Council of Nice ; and add, That a Bishop ought to be chosen by the Bishops of the Province.*

Page 89. the Bishop tells us, " That, *Anno* 858, there was a remarkable Contest concerning an Election between *Ignatius* and *Photius* under *Bardas* the Emperor ; so, a Synod being called about it, they objected to *Ignatius*, That he was never lawfully chosen. *Ignatius* answers, That he was chosen canonically, both by the Bishops and the Church ; but that *Photius* came in by the secular Authority, against the Canons. But *Ignatius* confessing that he came in without due Election, he was degraded. By this Proceeding, says the Bishop, it appears, that they still look'd on Elections as a Thing necessary ; and that without it, even after a long Possession ( for this was sixteen Years after *Ignatius's* Ordination ) was sufficient Ground for degrading a Bishop."

Page 91 and 92. he tells us, " That in the tenth and eleventh Centuries, the Church was fallen into so much Disorder, and the *Greek* Emperors were so wicked, the Conspiracies and Revolutions in the State, and the Changes that were made in the Church, were such, that it is rather a Wonder the Empire stood so long, than that it fell at last." He tells us, " That in this Time the Emperor *Nicephorus Phocas* made a Law, by which he assumed to himself a Power of naming Bishops, and commanded, that none should be admitted into any Church but by his Order : And tho' the Emperors then made the Patriarchs, that was esteemed an irregular Thing ; for, *Basilius* having made *Alexius* Patriarch, a Synod was called to depose *Alexius*, because he was not chosen by the Bishops, but put in by the Emperor, contrary to the Canons." So that the Interest of secular Powers, in the planting of Churches, will acquire little Credit from this Time and Period.

Altho' the *East* came in the Times already referred to to be in great Disorder, and the Wickedness of their Princes made them invade the Church's Liberty, the Bishop tells us, *p.* 94. " That, in the twelfth Century, the holy Wars were set on Foot, and the Princes of the  
" *West*



“ *West* possessing several Towns in the *East*, in these the  
 “ Bishops were chosen by the Clergy and People, the  
 “ Kings giving the Royal Assent.” Which shews, that  
 for some Time, in the Confusions of the *Greek* Empire,  
 the Freedom of Elections had been interrupted, and that  
 the *Western* Powers were against any Encroachments upon  
 this Freedom of Election.

Page 95. the Bishop tells us, “ That, in the Beginning  
 “ of the twelfth Century, the *Latins* took *Constantinople*;  
 “ but the *Greeks*, who seated themselves at *Adrianople*,  
 “ continued to have their Patriarchs; and *Theodorus*  
 “ *Lascharis*, to gain the Favour of the People, restored  
 “ again the Form of Elections. And, p. 97. Tho’ the  
 “ Emperors took the Nomination of Patriarchs into  
 “ their own Hands, yet the other Bishops were still e-  
 “ lected: For in the Direction given to the Metropo-  
 “ litans, one is, That, in the Ordination of Bishops, they  
 “ should avoid all *Simony*, and promote those Bishops,  
 “ who had a good Testimony given them, both of their  
 “ Lives, their Doctrine, and spiritual Exercises, and  
 “ were canonically elected.”

Altho’ that many Corruptions in Practice did obtain in  
 the West, and many Encroachments were made on the  
 Rights of the Church, and the Civil Powers took too  
 much to themselves, and the Methods of Elections were  
 often changed, yet we always find that Elections did ob-  
 tain; and, generally speaking, any Laws establishing the  
 Right of Civil Powers in this Matter, left much to the  
 Elections.

In the 6 Century, in *France*, after that King *Clouis* was  
 converted to the Christian Faith, the Bishop, p. 107, &c.  
 tells us, “ That he much endowed Churches; and, as a  
 “ Consequence of this, was his assuming a great Interest  
 “ in the Choice of Bishops: Yet we find in the second  
 “ Council of *Orleans*, Anno 533, they appointed the  
 “ Ordination of *Metropolitans*, according to the ancient  
 “ Custom, that they should be chosen by all the provin-  
 “ cial Bishops, Clergy and People, and be ordained by all  
 “ the Bishops of the Province. And altho’ the Kings of  
 “ *France* assumed a Right of recommending and making  
 “ Bishops where they thought fit, yet a Synod in *Averg-*

“ *nia*

“ *ni*, Anno 535, decreed, That a Bishop should be raised by the Choice of the whole Body, and not by the Favour of a few, and the Election of the Clergy and Citizens is declared necessary. Three Years after this, a Council that was held under *Childibert's* Division, another of *Clouis's* Sons, it was decreed, That a *Metropolitan* should be chosen by all the Bishops of the Province, with the Consent of the Clergy and Citizens, because he who is to be set over all, must be chosen by all. In a Synod at *Orleans*, Anno 549, The Bishop is to be elected by the Clergy and People, with the Bishops of the Province. So that none is to be made a Bishop over an unwilling People.”

Anno 615, King *Clotaire the second*, who was then sole Monarch of France, confirms the Way of Elections by the Bishops of the Province, Clergy and People. It is true, he adds some undue Reservation of Power in his own Hands, but he doth not repeal the Right of Elections.

But, Anno 803, in *Charles the Great* his Capitulars at *Aquin*, the Freedom of Elections was restored; for he declared, *That Bishops should be chosen by the Clergy and People of the Diocess in which they were to serve.*

Page 137. The learned Historian tells us, *That*, Anno 633, in the Province of *Toledo* it was decreed, *That none should be esteemed a Bishop, but he that was chosen by the Clergy and People of the City.* It is true, the King's Recommendation had great Influence, but still Elections were maintained; the Error was in the Practice, but not in the Law.

Anno 816, *Lewis* the Successor of *Charles the Great*, renews the Laws his Father had made, restoring the Freedom of Elections to the Clergy and People. His Regulations diffused their Influence for many succeeding Generations; for, at the Synod of *Rheims*, Anno 1049, it was decreed, *That none should be made a Bishop without the Election of the Clergy and People.*

The Bishop tells us, p. 158, &c. “ That it is not to be denied, but some Instances occur of Persons that were promoted merely by the King's Authority, with-  
“ out

" out any Election ; but this was looked on as a Service  
 " on the Churches : Therefore some procured a perpe-  
 " petual Privilege for a free Election, as was granted by  
 " *Charles the Gross.* to the Churches of *Geneva* and  
 " *Chalons*. And in the ninth Century, when the Bi-  
 " shops endeavoured to take the Choice of the Clergy,  
 " both Presbyters and Bishops, wholly out of the  
 " Hands of the People, it did not take Place ; for the  
 " People continued to chuse their Bishops. It is true,  
 " that the Presbyters were no more chosen by the People,  
 " as had been done anciently, except in those Churches  
 " where a Right of Patronage had been reserved, but in  
 " all other Places that was left to the Bishop." This  
 one Instance serves to prove two Things, 1. That the  
 Patronages of that Time extended only to the *minores*  
*clerici*. 2. That they did not invade the Freedom of  
 Election, and yet all the Time they were an usurped  
 Title.

Page 137, &c. As to *England*, the Bishop tells us,  
 " That no doubt the Bishops were chosen according to  
 " the Customs that were spread over the rest of the Ro-  
 " man Empire." He complains of the Carelessness of an-  
 " cient Writers, but adds, " Since we find that popular E-  
 " lections did afterwards take Place in *England*, we have  
 " Reason to conclude, it was so from the Beginning ; for  
 " Power seldom returns to the People, after it is once taken  
 " out of their Hands." But, *p.* 171. he tells us a Story  
 from *Matthew Paris*, that shows that Elections were still  
 in Use, *Anno* 1093 ; " For, when King *William II.* com-  
 " manded *Lauf Frank* to depose *Ulfstan* Bishop of *Wor-*  
 " *cester*, *Ulfstan* said in his Defence, That he had been  
 " rightly chosen, for he had both the Election of Bre-  
 " thren, the Petition of the People, the Consent of the  
 " Bishops, the Liking of the Nobility, and King *Ed-*  
 " *ward's* Command."

Altho' that the Emperor *Henry V.* took to him the  
 Right of Investitures, which the Pope had usurped ; yet,  
*Anno* 1111, we have this remarkable Account, " That  
 " when any Bishop was canonically elected by the Clergy  
 " and People, he should not be consecrated till he had  
 " the Ring and Staff from the Emperor." So that, what-  
 ever

ever 100th Noife was made between the Pope and ſe-  
cular Princes upon the Affair of Investitures, we ſee that  
as yet Elections did obtain.

There is one Thing worthy of our Notice the Biſhop  
tells us, p. 191. "That the People after the 12th Cen-  
" tury had no other Share in Elections, but that they  
" met and applauded the Choice the Clergy had made."  
Tho' this ſays nothing againſt my main Scope in this  
Chapter, which was to ſhew, that, notwithstanding of  
Patronages and Royalties of Princes, Elections were not  
diſcharged as now; yet this is the likeſt Thing to our  
Overture of Aſſembly, in which the Election is made up  
by a few, and the Perſon elected only propoſed to the  
People for their Conſent, that any Thing can be.

It may not be denied, but that in the 13 and 14 Cen-  
turies, that, as the Pope had invaded the Freedom of E-  
lections, ſo the Princes that ſtrove againſt the Pope's Con-  
firmations and Investitures, took too much upon them,  
reſerving in their own Hands, what was highly prejudi-  
cial to free and regular Elections, viz. *Elections of Biſhops*  
*were not to be made till they gave Leave by a ſpecial*  
*Writ, they ſecretly recommended the Perſon they intended*  
*to promote.* But whatever Encroachments were made on  
the Freedom of Elections, or Alterations of the Method  
of electing, there was no ſuch formal Repeal of the Right,  
as in the Act 10mo *Annæ* reſtoring Patronages.

When the 15th Century is a third run, the Council of  
*Baſil*, obſerving the Abuses made in Elections, in that  
Princes had made themſelves Maſters and Directors of the  
Elections of Biſhops, or Biſhopricks were diſpoſed of by  
Papal Bulls and Proviſions, they decreed, *That Papal*  
*Proviſions ſhould thereafter ceaſe, and that thoſe to whom*  
*the Right of Election belonged, ſhould ſwear to elect*  
*him they thought fitteſt; and that they ſhould not give*  
*their Voices for any (as far as they knew) that had uſed*  
*Means either directly or indirectly to get themſelves*  
*choſen: Earneſtly exhorting all Princes and States not*  
*to write to the Electors in Favours of any that had,*  
*either by themſelves or others, made Suit for obtain-*  
*ing theſe Letters; and that much leſs ſhould they uſe*  
*any*



any Threatnings, by which the Freedom of Elections might be restrained.

While Things hung thus in a Balance, a great Assembly of the *French* Clergy, Anno 1438, declared for the Council of *Basil*, and address'd King *Charles VII.* that he would protect the Council against Pope *Eugenius*, who intended to break it. At that Time the Council of *Basil* sent to the King an Abstract of their Decrees, consisting of 37 Articles, among which was the Decree concerning Elections. All these were considered in that Assembly, where the *Dauphine*, Princes of the Blood, and chief Nobility of *France* were present; and by their Advice was the famous pragmatick Sanction made in Confirmation of these Articles. Thus the Churches of *France* began to put on a new Face, when Merit and not Court-Interest advanced Men. Tho' afterwards *Lewis* the Eleventh, that he might keep in with the Pope, seem'd averse to the Sanction, and sign'd a Revocation of it; yet his Parliament oppos'd the Revocation, and *Lewis* the Twelfth made a perpetual Edict in Confirmation of it. But *Francise* the First having great Designs on *Italy*, and finding it necessary to get the Pope on his Side, he treated with him for the Abolition of the pragmatick Sanction, and, Anno 1515, the Pope and he had an Interview at *Bononia*, where they treated of an Agreement; but the King's Occasions calling him to *Milan*, he left his Ministers to finish what he had begun, and so the Concordate was brought forth, and put in the Form of a Bull, and, to give it the greater Authority, it was confirmed in the Council of *Lateran*.

By it the King and the Pope agreed to divide the Promotions to all Prelacies between them; Chapters were to have no more to do with Elections, for the King was to nominate the Person within six Months after the Vacancy, and the Pope was to confirm him, if no lawful Objection did ly against him. His Parliament oppos'd the Concordate, and so adhered to the pragmatick Sanction, as to protest that they would not observe the Concordate, and adhered to the Appeal made from the Council of *Lateran*, that condemn'd the Pragmatick Sanction, to a  
Pope

Pope better advised, or to the first General Council. But the King commands the Concordate to take Place.

It is worth a Room here to set down, what the Bishop, p. 249. gives us of the Reasons upon which the Opposition was founded; the Opposition, to wit, to the Concordate, by which Elections were taken away, viz. *That the Right of choosing Pastors was inherent in the Church; that it was founded on the Law of God, and was confirmed by the Decrees of many Councils, and by the Laws of many Kings of France, such as, Clovis, Charles the Great, and his Son Lewis the Good, St. Lewis, Philip the Fair, Lewis of Huttin, John, Charles the VI. and VII. If Abuses had crept into Elections, these might be reformed; but, upon Pretence of these, a Right, so well founded, ought not to be taken away.*

Thus the Affair is brought down to the Reformation; and I think the *Reconsiderer* will be hard put to it, if, in the Doctrine and Polity of the Generality of the reformed Churches, he find any Thing favouring Presentations, or condemning free Elections.

My next Authority is *Du Pin*, who tells us, "That, in the 6th Century the Bishops were elected by the Clergy and People, and yet the Patrons presented." Thus it continued to the ninth Century, in which he says, *That the Bishops were chosen by the Clergy and People, and that the People had a great Share in the Election.* Upon the Tenth Century he tells us, *That Popes did not as yet arrogate the Right of ordaining Bishops, and that the Elections of the Popes were yet made by the Clergy and People of Rome, and the Bishops were elected by the Clergy and People with the Consent of Princes.* Upon the Eleventh Century he tells us, *That the Elections of Bishops were yet in Use, tho' oftentimes the Princes named them, and caused whom they pleased to be elected.* Upon the Twelfth Century he says, *That tho' the Popes had a great Hand in the Collation of Bishopricks, because they were Judges of Elections, the Elections were yet made by the Clergy.* Altho' the Method of Elections came to be changed, he yet tells us, *That in the Thirteenth Century the Bishops were chosen by the Chapters; and in the Fourteenth Century the Election was according to Right and Custom.* As to the

Fifteenth Century, we have the pragmatick Sanction, and what ensued thereupon, of which already.

I shall only add to the above, some Instances from the Practice in our own Country in the Time of Popery, shewing how much Elections were regarded, and what Interest the People had in the Election of Bishops; and here I shall use the Authority of an Author whom the *Reconsiderer* will not suspect as an Enemy to Patronages, and that is Archbishop *Spotswood*, who tells us, *That, in the Eleventh Century, Eadmerus was elected Bishop of St. Andrews with Consent both of the Clergy and Laity; and that, in the Year 1238, Galfrid Bishop of Dunkeld was earnestly desired both of the Clergy and Laity. In the Thirteenth Century, the Clergy and People of Aberdeen postulated Matthew, Chancellor of the Kingdom, to be their Bishop; and Radolph Abbot of Abberbrothock was elected Bishop with the uniform Consent of the Clergy and People; and Angelramus, by an uniform Consent of the Clergy and Laity, was elected Bishop of Glasgow.*

Perhaps the *Reconsiderer* will say, That the most of these historical Accounts of Elections respect Diocesan Bishops, who, from the Considerableness of their Office, and the Extent of their Jurisdiction in the Times referred to, were elected; but these Instances will not prove Elections as to Parish-pastors.

*Ans.* 1. If the People, or they who take upon them to represent them, had such a Share in the Election of the *Diocesan* Bishops, or were judged fit for that Privilege, then much more for the Election of a Parish-Minister; so that we may argue from the greater to the lesser. 2. It may be some Part of an Answer, the Ground of the *French* their Opposition to the Concordate, viz. "That the Right of chusing Pastors was inherent in the Church, and founded on the Law of God, &c." Here there is no Difference between the Bishop and the Parish-pastor in the Matter of Election. 3. If the King be Patron of the Bishopricks, because they are all of his Foundation, and yet the Bishopricks have been elective; so the Patronage of Parishes should not anul Elections, as doth the Act *decimo Annæ*.

Another Proof and Evidence of the more rigorous Exercise of Patronages now as from the Reformation to

1649, or in the older Times of the Church referred to, is when the Liberty of the Church is invaded by Sifts of Ecclesiastical Procedure from the Civil Powers, and their Powers are arrested, unless they settle the Persons presented. Several Thrusts have been made at this Church this Way, both *South* and *North*; and two Instances but lately, as to the Settlements of *Montrose* and *Port-Glasgow*. The Synod of *Glasgow* and Presbytery of *Paisley* have settled the Man duly elected, notwithstanding of the Sift. As to *Montrose*, both the Presbytery of *Brechin*, and Synod of *Angus*, were commanded to sift Proceeding, unless they should settle the Presentee: But the Synod, notwithstanding of the Opposition of the People of *Montrose*, and the great Majority of the Church-Session, have appointed a darling Court of Correspondents to settle the Presentee. Now, altho', in the earlier Age of our Reformation, some Patrons presented in an arbitrary Way, or *nullo jure*, that is, without Regard to the Laws establishing their Title, or regulating their Powers; the *Reconsiderer* will be hard put to it to give any Instances, which either repealed the Congregation's Right, or that Civil Courts interposed as they do now so commonly; far less will he be able to show, that the Church then so far concurred with such Methods as they do now in appointing Committees to settle Presentees against the Will of the Congregations and Presbyteries, unless in the Instances I have given of the original Charter of such Committees and Courts of *Correspondents*; and even with respect to these, whatever Encroachments were made on the Privilege of Church-judicatories, by the Laws both of Church and State, a Regard was had to Congregations: So that really our Situation is worse now as then.

It is worthy of Notice what Bishop *Burnet* tells us in p. 112. of his *Regale*, *That the Church of France*, Anno 557, declared, *That, as they intended to have Canons and ancient Customs well observed, so no Bishop ought to be ordained, but he that was chosen by the Clergy and People with the greatest Freedom; and that the Choice should not be carried by the Prince's Command; and that, if any by the King's Authority were made a Bishop, the Bishops of the Province should not receive nor acknowledge him, under the highest Pains.* I think



this is a quite different Thing from now; that the Power of a Church-judicatory in settling a Vacancy must be fitted by the Civil Powers, unless they settle the Presentee; and that our superior Ecclesiastick Courts should appoint the Presentee to be settled, who hath not been chosen by the Clergy and People.

I know the *Reconsiderer* will say, That the Civil Powers cannot by their Sifts hinder Presbyteries from settling Persons duly elected, tho' they may abstract Payment of Stipend to him who is elected, if he be not presented; For, says he, *p. 14. let the Patron keep his Living to himself, and the People will not profit the less in Spirituals, that they supply their Minister in Temporals.*

*Ans. 1.* I have already shown, that it is the Duty of the Christian Magistrate to provide Churches with Livings to their Pastors. *2.* That none have a just Title to these Livings, but they who are duly elected and admitted by the Church. *3.* That the Provision of Churches is generally out of the Parishoners Temporals; and it is neither just nor reasonable that their Temporals should be disposed of to any, but to the Pastor duly elected and admitted. *4.* If, according to the Doctrine of the *Reconsiderer*, it be at the Discretion of the Patron to keep the Living to himself, and leave it to the People to provide the Minister they have duly elected; this may prove the ready Way to palm down Presentations, or to leave poor Congregations desolate, who are not able to give a Living to a Pastor, if the common Endowment of the Church be alienated by the Patron, and they left to their Shifts. *5.* It would seem the *Reconsiderer* were of Opinion with *Hincmar* Archbishop of *Rheims*, in the ninth Century, who did acknowledge, *That when the King planted a Bishop, tho' against the Canons, the Revenues were to be paid to him, because these were at the Emperor's Disposal.* So, when *Lothaire* made *Guntbert* Bishop of *Cambray*, he wrote to the Clergy and Gentlemen of that Church, *Not to receive him as their Bishop, but yet to pay him the Rents of the Lands belonging to the See, because these were the Emperor's.* This is the likest Thing in the World to what the *Reconsiderer*

*siderer* says, p. 14. *Let the Patron keep his Living to himself, &c.* Dr. Burnet, p. 168. of his *Regale*, observes, *That the King had the Guardianship, but not the Propriety or Right to dispose of the Rents.* Here our Countryman the Bishop of *Sarum* leaves the *Reconsiderer*, and allows him to make a Voyage to *France* for his further Improvement, where he may find a more noble Patron, the Archbishop of *Rheims*: But I proceed to another Chapter.

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## CHAP. VI.

*Shewing the Unlawfulness of Patronages in themselves, with some short Hint of their History and Revolutions.*

THERE had been no Occasion for this Chapter, if the *Reconsiderer* had not excepted against the Directions given in the *Right considered*, p. 17. to such Standards, Statutes, and Authors, as condemn Patronages, and prove them to be unlawful in themselves, and so hurtful and prejudicial to the Church, as that the Patron cannot with a good Conscience use the Right.

After that this Church had declared in their second Book of Discipline, *That Patronages have no Ground in the Word of God, but are contrary thereto*: And the General Assembly, no further back as the 1715, declared, *That, by the Act restoring Patronages, the legally established Constitution of this Church was altered in a very important Point*: It might have been expected, that no Minister professing to be of the Communion of this Church would ever have published what the *Reconsiderer* hath done; as, p. 14. *That Presentations are an instituted Right, generally thought convenient to be superadded to the natural Title.* p. 18. he will not allow the *Case-Writer* to say, That limited Patronages are in some, or in a lesser Degree sinful; and through the most of his

Book he seems to jest at the Saying, *That Patronages are in themselves unlawful* ; upon all which Expressions, I have remarked, as I went through his Performance.

I shall therefore offer some of the most material Arguments that have been made Use of against the Right of Patronages; but, before I proceed to this, I shall give some short Hint of their History and Revolutions.

This *Right of Patronage* then was not framed and perfected at one Dash, it was not so much as heard of in the pure and primitive Times. It might have been thought, that, if such a Right and Title had been agreeable to sound Reason, we might have read nothing of the first Institution of Deacons : These who sold their Estates, and laid them at the Apostles Feet, according to the Foundation of the Patronages, had been the Managers of this Christian and charitable Fund ; but we see this behoved to be done by Men appointed of the Church, for which Divine Appointment several weighty Reasons may be given : This usurped Title then by small and insensible Degrees crept into the Church.

It hath been observed, That the Name and Title of *Patron* hath been somewhat ominous and unlucky, as importing a Servitude and Bondage on the Church : For, as in the *Roman* Laws and Customs, a Patron (albeit the Name import Favour and Protection) was still understood to retain a very hard Interest in the Persons and Estates of such Servants as he had manumitted and set free from their Bondage, and a Right of reducing them to their former Condition and Slavery, upon Pretence of Ingratitude, or a Carriage any Way unsuitable to the Favour of Freedom they had received ; So the Patronage we are now upon, hath been very answerable to its Name in restraining and impeding (under the fair Colour of Protection, and securing a Title in Law to the Stipend) the Church and People of God, from the free and lawful Exercise of their spiritual Rights and Privileges

In the Year 407 the Clergy of *Africk* desired of the Emperors *Arcadius* and *Honorius*, that the Church might have Advocates or Defensors. For clearing of this, it is necessary to know, That in the *Roman* Empire there were

were Defensors for all Countries and Cities, who were deputed by those Bodies to solícite their Affairs. And now, that the Church came to have many Affairs, and had Lands and Possessions, which many Times put them to Suits of Law ; The fifth Council of *Carthage*, Anno 398. ordered an Address to be made to the Emperors, " That the Bishops might name Defensors of the Church's Goods." Nothing was done in this till the Year 407, that, renewing their Suit, a Law was made exempting the Clergy from looking after their Causes, and that their Defensors might do it in their Name. So this was the Beginning of the Advocates of the Church.

The Council of *Chalcedon*, Anno 451, appoint, *That whereas, in some Churches the Bishops did without a Steward, and by themselves, administer the Revenues of the Church ; thereafter every Bishop should appoint one of the Clergy to be Steward of their Revenue and Incomes.* So unlike were these to our Patrons, that the same Council appoints, *The Revenue of the vacant Church to remain entire in the Steward's Hands, for the Use of the Church.* The Steward had no Title to retain that in his own Hands as a Part of his own Estate, nor to dispose of it otherwise than to them for whom it was appointed by the Church : He had not a Power of promising the vacant Stipend in order to make Votes for the Presentee, as hath been very publicly asserted to be done now-a-days.

Our Patrons, who claim a Right of nominating and presenting to Churches, pretend their Institution to be as old as the Reign of *Justinian* in the 6th Century, whom they alledge to have made a Law, *That they who endow'd Churches should have the Right of nominating and presenting the Clerk.* But, as I have shewn in the former Chapter, that even by *Justinian's* Laws the Freedom of Elections were secured ; so, many are of Opinion, that the then Power of the Patron did not extend any further as to the Presentation of the *minores Clerici*, and that they had no Interest in the Election of Pastors, who were called Bishops ; as appears from the 123 *Novel*, in which it is appointed, *Ut ad electionem Episcopi, convenirent omnes Clerici, & primores civitatis.*



From these it may appear, that the first Patrons, Stewards, Advocates or Defensors, were quite another Thing from the Patrons that afterwards obtained, and are now authorised by Law with Powers far superior to what they had in the Reign of *Justinian*.

The first Sort were to be managed, *cum provisione Episcoporum*, by the Consent of the Pastors and Office-Bearers in the Church ; they had no Business with the Call and Election of Ministers, nor had they any private or negative Interest in Ministers Stipends and Maintenance as now. Their Trust was elective and not hereditary, as afterwards and now, nor purchasable as a Man's private Patrimony as now.

The Patronages then we are contending about are these, which, according to the Act 10mo *Anne*, are established upon the Ruins of the Congregation's Right to chuse their Pastors, and who claim a negative Interest in disposing of the Stipend of the Parish, if the Presenting to Office or Benefice be competent for the Patron.

The *Reconsiderer*, through the whole of his Performance, would represent Patronages and Presentations to be quite another Thing than what they are, either by the Civil Laws establishing them, or by the Conduct of the Church concerning them : All along he would blind his Readers with this, as if a Presentation were equivalent to a Decree of Plat, and that there were no more in them than the giving a Minister legal Diligence for his Stipend.

I am sure he himself must be persuaded, that they are quite another Thing, 1. From the Nature of the Title, namely, *A Right of nominating and presenting One to be instituted or ordained to a vacant Benefice*. According to his Evasion, they should be defined, A Method of making Payment of Stipend effectual to One duly elected and admitted, which would never resolve into the claimed Negative in the disposing of the Stipend.

2. If Patronages and Presentations were to be an Equivalent to a Decree of Plat in favours of the Man duly elected and admitted, then Elections should stand established by Law ; whereas any legal Interest the Congregation had that Way, by the Act of Parliament 1690, is

repealed by the Act 10mo Anne, according to which a Power properly elective is lodged in the Hands of the Patron.

3. If the Patron only pretended to make the Stipend effectual to the Man duly elected, then the Civil Powers should encourage Presbyteries to admit such ; But, instead of this, what Encroachments by Civil Judges pretending to sist Ecclesiastical Procedure, unless Judicatories will settle the Persons presented, tho' not elected ? If the Case were otherwise, they should interpose their Authority for supporting due Elections, and for causing Stipend to be paid to them who are duly elected and admitted.

4. Every one knows, and to our Reproach it is, that we should have Occasion of knowing it, that many of our lamentable Church-Decisions, in the Matter of Calls, go against the Parish, and are influenced by the Presentation, according to the current Stile now, That it is not convenient to fly in the Face of the Law. This is another Thing than for the Patron to have no more Right than to secure the Stipend to the Man duly elected.

This I thought needful to premise, that there may be no Doubt about what we are proving : For whatever the *Reconsiderer* may pretend, as if a Presentation were only given to a Minister duly elected and admitted ; this only comes in to fill the Field, when he is straitned for another Answer, as appears both from his Doctrine and Practice. From his Doctrine, *p. 14. Let the Patron keep his Living to himself, and the People will not profit the less in Spirituals, that they supply their Minister in Temporals.* As to his Practice, what is so certainly informed of his giving his Suffrage for settling the Presentee at the *West-kirk*, so notoriously opposite to the Will of the Congregation ; He is put to some Strait to answer the Question, If a voting the Expediency of settling the Presentee was the Way to make Presentations answer his End, namely, the securing the Stipend to the Man duly elected ?

So the Thing to be proven is, That it is in itself unlawful, that the Patron nominate and present to Churches,  
and

and have such a Title of disposing the Stipend, which, by the Laws establishing his Right, and Decisions supporting his Right, and his own Practice in the Exercise of his Right, is negative, and prejudicial to the Freedom of Elections, and the Power of Presbyteries in admitting Persons duly elected to the Pastoral Office in a vacant Parish. This I prove by the following Arguments,

1. The Patron's pretended Privilege of nominating and presenting to a Church and Benefice, is no Ordinance nor Institution of our blessed Lord. There is no Ground from Scripture, either by Promise, Precept or Example, for investing any single Person with the Privilege of Looking-out and Nomination of Ministers of the Gospel. Neither is it so much as pretended to be founded on the Scripture, it being confessedly of a far later Date: Therefore, for any Man to give or assume such a Privilege, where our blessed Lord, the Church's only King and Lawgiver, hath not given it, is a most sinful Usurpation over his Crown and Dignity, and an Invasion upon the Rights of his Church.

That Patronages are no Institution of God's, is clear from this, That all lawful Powers, or Powers that are of God are either Civil, or Ecclesiastick and Spiritual: For, as to mixt Powers, such as are neither purely Civil, or purely Ecclesiastick, such as give Church-Officers an Interest in the Management in secular Affairs, and Civil Powers an Interest in Ecclesiastick Affairs, have no Foundation in Divinity or good Policy, but are contrary to both; as hath been found by the Church's dear-bought Experience. And, as the Magistrate or Civil Powers of a Nation have no Power to meddle in Ecclesiastick Affairs, so neither Church-Officers in Civil Affairs; for our Saviour hath told us, *That his Kingdom is not of this World.* Now, the Power of Patronage is one of these irregular Inventions, which neither can be called a Power Civil or Ecclesiastick.

1. Not a Civil Power, as may be evinced from the Nature of these Acts about which it is exercised, viz. the Looking-out, Nomination and Election of the Ministry, and the negative Interests acclaimed therein, and in their Maintenance; all which are Actions of a Spiritual and Ecclesiastical Nature, and such as by the Holy Ghost are  
always

always given to the Church, and to none other: Accordingly, in the Primitive and Apostolick Times, and long thereafter, the Looking-out and Nomination of Ministers of the Gospel was managed by the Church herself, without the Interposition of Patrons.

The *Considerer* hath before noticed, That, tho' the Conveyance and Confirmation of the most Part of Patronages hath been from the Civil Magistrate, by Rights under the Great Seal; yet this cannot prove that Right to be truly Civil. For, according to the Reverend Mr. *Park* on the Subject,

1<sup>st</sup>, No Conveyance or Confirmation of a Right can alter its Nature, which it still retains, come through what Hands it will, and let it be disguised under what Terms you please.

Nor, 2<sup>dly</sup>, Can any Law or Magistrate confer or confirm a Power that is materially and in itself unjust and unlawful; for it is not enough to make a Power materially just and lawful, that it be formally legal.

3<sup>dly</sup>, These Conveyances and Confirmations of Patronages, by Grants from the Magistrate, seem invented for no other End, but to put the Patron's usurped Power under the Protection of Civil Authority, and to cover the Stain of *Simony*, with which the Patrons were most justly branded, when they bought and sold their usurped Privileges over the Church.

Neither, *Secondly*, Is the Patron's Privilege a Power truly Ecclesiastick. For,

1. Tho' these Acts in which it is exercised be Ecclesiastick and Spiritual, yet this will not make it a Power truly Ecclesiastick and Spiritual, unless its Warrant by Precept or Example be proven from the Word.

2. If it were a truly Spiritual Power, it could not be conveyed or transmitted by Birth or Right of Blood; for under the New Testament there is no such Conveyance or Transmission of Sacred Offices.

3. If it were an Ecclesiastick Power, it could not be bought and sold as a Man's private Inheritance or Patrimony.

4. If the Patron's Power were Spiritual and Ecclesiastick, then he must have this Power, either as an Office-bearer  
in



in the Church, or as a private Church-member: But he hath it neither of these Ways; not as a Church-officer; for in all the Catalogue of Church-officers, mentioned in the New Testament, *Rom. 12. 1 Cor. 12. Eph. 4.* there is not the least Shadow of a Patron, either as to Name or Thing; nor hath he this Power as a private Church-member, else every Church-member might claim it as well as he.

*Secondly,* The Patron's nominating and presenting a Man, whom the Church is appointed by Law to examine and admit, mars and obstructs the Freedom of the Church's Election. The Election of Ministers is a Right inherent in the Church: And, tho' the Patron may pitch upon, and present a Person of true Worth; yet nothing should be done, to hinder the Election of one more worthy: But the Patron's Power takes away this Liberty; for, if his Presentee can, pass Muster in the Presbytery, whether he be the Parish's Choice or not, he must be the Man.

Whatever Diversity of Judgment may be, as to the Seat of the Church's Power in the Election of Ministers, yet it is agreed upon by all sound Divines, that this Power and Right of Election belongs only to the Church as such; and consequently cannot belong to the Patron. The Church was in the actual Possession of this Right several hundred Years before such a Device as Patronages was heard of in the Christian World.

The Apostles and Multitude of Disciples met for the Nomination of such as might be elected to the Apostleship; and much more are they to have Concern in the Appointment of ordinary Pastors. We also find, that the Looking-out, Election and Nomination of the Deacons, was by the Multitude of Disciples, *Acts 6. 9. & Acts 14. 23.* it is said of *Paul and Barnabas, They ordained them Elders in every Church*; more agreeable to the Original translated by the learned Mr. Calvin, thus, *And when they had by Suffrages ordained them Elders in every Church.*

It will not do here to say, as the *Reconsiderer* doth, *That the Patron doth not claim an elective Capacity, but a Power of giving the Right to the Stipend.*

For,

For, 1. I have over and over observed from the Act *anno Annæ*, restoring Patronages, that the elective Power is taken away from the Congregation, and given to the Patron. 2. That the Civil Powers take upon them to fift Ecclesiastical Procedure, if any other as the Presentee be settled. 3. That the Patron's Nomination and Presentation, even as now pretended to be limited, is an antecedent and not a subsequent Deed to that of Election. 4. In too many of our Judicatories now, a Presentation is made Use of as a *proprie impedit*, why a Man duly elected, if not presented, should not be admitted. 5. If the Patron hath a Power of giving or withholding the Stipend, he invades a free Election, because the Man duly elected, tho' admitted, if not presented, hath no Living, and so cannot officiate: So that Congregations must either provide the Man they have duly elected, or they must want a Minister, or they must accept of the Presentee. 6. I have shown, that it is the Duty of the Christian Magistrate, to provide Livings for the Ministers of the Church, and to see that the Rights and Privileges of the Church be maintained; and it is a plain destroying the Church's Right and Privilege, to put it in the Hands of Patrons to dispose of Stipends to others as those who may be duly elected.

*Thirdly*, That Patronages are unlawful in themselves, may be argued from this, That the Rights of the Church, as to the Call of their Ministers, or the Right of Pastors to a Living, is settled by the Great Lawgiver; and it is not left indifferent, who shall choose Ministers, or whether the Christian Magistrate shall see to the Provision of the Church or not; this he is bound to by the Law of GOD: And, as the Election and Maintenance of the Ministry is not a Matter of Indifferency; so neither is it indifferent or arbitrary, that the Magistrate give or withhold the Stipend as he pleases, far less that the Patron should do it.

I know the *Reconsiderer* hath ready for me his Distinction, *That no Doubt the Minister duly elected and admitted hath a natural Right to be maintained by them among whom he serves; but this will not give him a Title to a modified Stipend, without a Presentation.*

Really,

Really, such Reasoning is so far from solving Difficulties upon the Score of Patronages, that it rather increaseth them ; for the Minister is not in the Magistrate or Patron's Reverence, as to his natural Right to a Living : And if the Christian Magistrate modify Stipends to Parishes, it should be, that the Ministers duly elected and admitted to these Parishes, may enjoy them, and not that the Patron have a Negative in the Disposal of them ; for the Magistrate transgresseth the Bounds of his Duty, if he require of a Minister, duly elected and admitted, any Terms of his enjoying that modified Stipend, but what are founded in the Law of GOD. Now, Presentations, or the Accepting of them, have no such Foundation, and so are neither indifferent, or can be lawfully used.

*Fourthly*, The Unlawfulness of Patronages in themselves will appear from this, That they are against the common Freedom and Interest of Society. It is a Privilege naturally inherent in all free Societies, to choose their own Rulers ; and the Power of electing Ministers is a Right inherent in the Church, as a Christian Society. It is but a Sham to pretend, That the Patron doth not invade the Freedom of Election, when he yet presents another to the Living as the Man elected : For, as the Ruler is elected by them over whom he is to govern, and hath his Maintenance from the Society electing, and none hath a Right of disposing of that Maintenance to any other as to him the Society hath chosen ; so, in Reason, none hath a Right of alienating from a Minister, duly elected and admitted, the Funds and Maintenance belonging to Christian Societies, in Behalf of their Ministers, or of giving the Maintenance at his Discretion to another. If the Man duly elected and admitted forfeit his Title by unsuitable Behaviour, the Church puts him out of Capacity of enjoying the Benefice, and none but they put him in a Capacity of enjoying it : So that the Patron's giving or withholding the Stipend, as he thinks fit, is an Invasion upon the Privileges of the Church, who have a Right to choose him, and to put him in a Capacity of enjoying the Benefice.

*Fifthly*, Altho' it were true, that Patrons meddled not with the Election of Pastors, as the *Reconsiderer* pretends,

tends, tho' contrary to the Act *imo Annæ*, but only had a Power and Title in Law to give or withhold the Stipend ; yet this very Thing proves their Unlawfulness, if it be considered, that this puts it into the Patron's Hand, of forcing the Parish to fall in with his Presentee, because, tho' they choose another, they have no Stipend to give him.

For altho' the Patron were bound by the Law to give his Presentation to the Minister duly elected, yet no Necessity or Reason can be pleaded, why the Patron should have the Right of confirming a Minister's Title to his Stipend. When Parishes are provided with legal Maintenance to their Ministers, what remaineth but that the Christian Magistrate interpose his Authority for making Payment effectual ? But the *Reconsiderer* is a Man of better Sense, as not to know, that the Patron hath a higher Claim ; yet tho' he were thus limited, as to be legally obliged to give his Presentation to the Man duly elected, yet in this Shape Presentations are unnecessary Things, no End being reached by them, but what can be overtaken by the Exercise of the Magistrate's Power, in its due and proper Chancel : And that any Man should have the Right of Presentation, as his Heritage, is of bad Influence, and liable to great Corruptions, both in respect of *Simony* and *Sacrilege* ; and, through the Length of Time, they claim Powers not to be found in their limited original Charter. But such a Frame of the Patron's Right hath no Foundation in the Laws ; and consequently is a *Non ens*.

*Gibly*, That Patronages are unlawful in themselves, will appear, if we take a View of the Grounds and Foundations of their claimed Title. Every Body who writes on this Subject of Patronages, tells us, That the *Dos, edificatio, fundus*, the building and endowing of Churches are the Foundations of the Patron's Title ; so that it is alleged, that they reserved to themselves, and to their Heirs after them, a Right and Title of Nomination and Presentation to that Church and Benefice.

The *Considerer* of the *Right* directed the *Case-writer* to such Authors as write against Patronages ; but, that not satisfying, I am obliged to transcribe some abridged Account



count of their Reasonings, only adding some Things that might obviate the *Reconsiderer's* modern Distinctions.

The Reverend Mr. *Park* tells us, in his excellent Treatise on Patronage, *p.* 32. and forward,

1. That, if Patrons will stand upon this Pretence of a Reservation, we may retort, that they have forfeited their Rights, if they had any, by their not performing these Conditions, on which only (if we may believe the Canonists) the Pope and other Bishops granted, and the Patrons accepted, the Rights of Patronage, *viz.* 1. "That the Patron shall be obliged to uphold and repair the Kirk, when it is like to fall or proves ruinous: 2. That he should be obliged to rebuild it, if it were burnt or shaken down by an Earthquake. 3. That he defend the Benefice from Dilapidation and Misapplication; and that he take Care, that on all Occasions the Pastors be furnished with due Maintenance." Now, as it is sufficiently known, how unsuitably Patrons have acted to all these Obligations; so the Burden of the most, if not the whole, of this Charge, is by Law laid upon the Heritors and People of the respective Parishes. Another Thing that may infer a Forfeiture of their Rights, is the Sale of their Patronages, contrary to the Prohibitions of the Canon Law, and the Council of *Trent* itself.

2. The Patron's Pretence of a Reservation, unless it be produced, is but *gratis dictum*, and can never be sustained, as being against the general Presumption of Liberty; whereas all Servitudes, such as Patronages are acknowledged to be, are never presumed, but must be positively and evidently instructed: Therefore let Patrons instruct their Reservation, otherwise not plead it.

3. The Right of Patronage rather crept in clandestinely and by Stealth upon the Church, than was the Effect of any positive Institution, or express Reservation, made at the Time of founding or doting of Churches. And, tho' there may be some Churches in later Times built and settled with such Reservations; yet, as the Number of such will be found small, so these cannot be a Ground for the Rights of Patronage in general.

4. It is undeniable, that the most Part of Patronages are grounded upon mere Custom, and frequent Acts of

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Presentation, without the least Pretence to any Reservation of this Nature ; or they are founded on ancient Prescription past Memory, or some declaratory Sentences past thereupon.

5. The Patrons shifting to old Characters and Impressions on the Kirk-Walls, and Bells, for the Probation of their Rights, doth plainly acknowledge they can instruct no such Reservation.

6. The Canonists do grant, that the Right of Patronage was ordinarily constitute otherways than by such Reservations, when they tell us, *That the Pope per modum privilegii conferred this Right on whom he thought fit, tho' they had never bestowed a Farthing upon the Church.*

But, tho' the Patrons could really instruct their endowing and building of Churches, and their reserving a Power of nominating and presenting Ministers to these Churches, these will not warrant their Title.

For, passing some Motives of building and endowing Churches, as not worthy of our Consideration, I shall only observe on two Grounds, or Reasons of the Patron's endowing a Church, and show, that in neither of these Respects can he justly plead a Reservation of the Right of Patronage.

*First*, If Patrons have builded and endowed Churches by Way of Debt, as Heritors of the Lands within which the Churches are situate, and for the Conveniency of the Inhabitants, they will not from this acquire a Right of reserving to themselves the Nomination and Presentation of a Minister to that Church. For,

1. Such Benefactors do no more in this, but what by the Light of Nature and Law of Nations, and much more by the revealed Will and Law of God, and Municipal Laws and Customs of the Christian State, in which they live, they are obliged, and might be compelled to do. For, as it is a Principle acknowledged all the World over, That all reasonable Creatures, and much more Christians, ought, not only privately and in Secret, by themselves and in their Families ; but also jointly, solemnly and in Publick, to worship and adore God ; so, in Consequence of this natural and moral Duty, they are obliged to have convenient

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Meeting.

Meeting-places, for going about that Duty, and to raise a Maintenance for such as are set apart from other Employments, to attend this Worship and Service. Accordingly we find the Practice of all Nations, in all Ages, how barbarous soever, hath been suitable thereunto: Therefore, this being a natural and acknowledged Duty, the Burden of it must necessarily be charged upon such as have the Lands and Rents within the Bounds. So that we may safely conclude, that such Benefactors are so far from deserving such a Privilege over the Church, that they should acknowledge, That, when they have done all commanded them to do, they are unprofitable Servants, having done nothing but what was their Duty.

2. Altho' the whole Charge doth naturally ly upon such Heritors, yet they have always the Concurrence of the rest of the Inhabitants of the Bounds (tho' these have no Interest of Property in the Lands) and thereby a proportionable, and, perhaps, a greater Relief of the Burden. So such Benefactors do not in that Case so much as their Duty obliges them to do, so that they do still less deserve the Privilege.

3. We do not find that any of the People or Princes of *Israel*, such as *David*, *Solomon*, &c. for all the vast Expence of Treasure they laid out upon the building and repairing the Temple at *Jerusalem*, or upon many Synagogues that were in the Land, did ever lay claim to the least Shadow of such a Privilege, in Reference to the Call and Maintenance of the Officers of the Church.

4. Under the New Testament we find as little Mention of such a Privilege; for all the large Possessions and Donatives that were bestowed by the Faithful upon pious Ules, were given freely, without Reserve. The Practice of *Ananias* and *Sapphira* do indeed look another Way; but we do not find that these who sold their Possessions, and laid them at the Apostle's Feet, craved a Right of Patronage, or a Right of disposing these dedicated Things on whom they thought proper: No, these Things were to be managed by Men chosen of the Church for that End.

*Secondly*, Another Sort of Benefactors are these who confer Favours on the Church by Way of pure Alms, and  
free

free Charity, who, having no Civil Interest within the Bounds, do build, or endow a Church with a Maintenance more or less, merely for the Good of the Peoples Souls: Yet even such cannot reserve to themselves a Patronage-Right, or a Right of nominating and presenting a Minister to that Church ;

1. Because the Nature and Design of such Deeds can never be constructed so, as the depriving the Church of her Privilege of nominating and presenting such as may labour among them in the Work of the Gospel ; for this would bring such Benefactors under the Guilt of Robbery, absolutely inconsistent with, and destructive of, the Nature and Design of Charity : For, if such Favours be conferred on the Church by Way of pure Charity, there can be nothing more unsuitable to the Nature and Design of Alms-giving, or destructive of it, than to assume or expect a Recompence of Gain, Applause, or any other temporal Reward : And much less can such an enslaving Privilege as this of Patronage be expected ; for Alms, as Alms, look for no Recompence of Reward from these on whom they are bestowed, save that of a Blessing from God, to whom such Gifts are said to be lent, and who hath engaged to repay them accordingly. So he who by such Deeds expects to obtain a Right so prejudicial to the Church, as the Patron's negative Interest in the Election and Maintenance of the Ministry, seems to say as much, as that he is neither a cheerful and liberal Giver, nor that he will wait for God's promised Reward ; therefore he will reward himself by such an unsuitable Reserve.

2. That which is once given away, and consecrated to the Lord for pious Uses, is no more his who gave it ; as is clear in the Case of *Ananias* and *Sapphira*, Acts 5. and therefore no private Interest is to be retained in it, or negative Interest in that Provision of Ministers of the Gospel. And tho' such Acts of Favour and Charity as are freely and gratuitously bestowed on the Church, seem to plead more for the Right of Patronage than such as are done by Way of Debt, or for Satisfaction of Moral Duty and Obligation, to which the Donor or Founder was previously engaged ; Yet there are none who perform such Acts out of the Singleness of their Hearts, and



from a true Principle of advancing the Glory of God, that will desire a Privilege so hurtful to the Interest of Christ and Good of Souls.

It may be observed, That any Right a Patron can pretend to give a Pastor to his Maintenance, is *quoad* the Pastor but a groundless Pretence, the Pastor's Right to his Maintenance being fully established by his lawful Call to the Ministry, and his faithful Discharge of it : So that, unless the Patron will pretend that he can put a Minister in a spiritual Capacity, he can give no Right to his Maintenance. And, tho' what the Patron gives should be granted to be a Confirmation, yet it can give no new Right; for *Confirmatio nihil novi juris addit, sed antiquam jus tantum roborat*. The Pastor's spiritual Capacity and faithful Discharge of his Duty, and that only, gives him a full and unquestionable Title to his Wages.

As this Pretence of a Reservation is of no Weight in Favours of the first Founders and Donors themselves, whether they confer such good Offices gratuitously or otherwise, to give them the acclaimed Rights of Patronage in Retribution and Recompence; so it hath much less Force to continue the same in favours of their Heirs, or others who succeed them on a singular Title of Donation, Sale, Permutation, &c. For, as these may be very far from being endowed with the Merits and Qualifications of the first Donor; so for the most Part they are so far from tracing his Footsteps and Example by gratifying the Church, that they would be content it were in their Power to void and nullify their Predecessors Deeds. So that, tho' the Patron's Title were otherwise good or just in favours of him who is the Donor (which it is not) yet it ought not to descend to Heirs, or others acquiring a Right upon a singular Title.

Another Ground that is commonly pleaded for the Right of Patronage, serves also to proclaim the Unlawfulness of it, *viz. That the Patrons of Kirks and Benefices do enjoy the acclaimed Privilege in Reference to the Call and Maintenance of the Ministry, by a Grant and Concession from the Church.*

Some by this Grant or Concession do understand, *That the Church hath alienate and transferred her Right of Election,*

*Election, and divested herself of it in favours of the Patrons. Others again do understand by this Concession, That the Patron acts by virtue of a Commission from, and as impowered by, the Church, without founding upon any higher Ground of Property in the Privilege, by virtue of an Alienation of the Right of Election made by the Church to him.*

It is worthy of our Notice, that this Ground, which is adduced for the Patron's Right, is primarily and originally a Church-power. But, to begin with the first Sense, in which this pretended Concession may be understood, viz. *That the Church hath alienate her Right of Election, and divested herself of it in the Patron's Favour.* The following Things mulitate against this,

1. That the Church cannot alienate or transfer her spiritual Rights and Privileges, or divest herself of them; These are Interests not at her Disposal, she being only intrusted by Jesus Christ with the Custody and Administration of them, for the Good of the present and succeeding Generations. The Church can no more make over her spiritual Rights and Privileges, or subject herself to strange Lords and new Lawgivers therein, than a Woman can make over the Right of her Body, which only belongs to her lawful Husband; or a Prince the Rights of his Crown and Kingdom, or the Liberties of his People, to a foreign Power; or a Person in Nonage, the Right of his Estate; or the Administrators and Governors of a City and Community, can alienate the Rights of their Constituents.

2. Tho', *de facto*, such Attempts may be made, yet, *de jure*, they are void and without Effect: And, let the Conveyance be exprest under what Terms, and carried under what Cover and Disguise you will, the Right stands still immoveable, and remains still where it was at first.

3. It is the Lord Jesus who hath Power to settle the Rights and Privileges of the Church; and all the Right and Power the Church hath in these, is only a Trust, to keep and manage them according to the Appointment and Instructions of her Lord and Master; without whose Consent or Direction the Church cannot alienate or divest herself of any of her Rights and Privileges.

4. As the Lord Jesus Christ hath the only Right Property, and Power of disposing of the Church's Rights and Privileges ; so he is the only just and true Proprietor of her Rents and Patrimony : And, when an Office vaikes, the Rents return to the Church herself, as Proprietor under Christ, to be disposed of for pious Uses.

5. As, *de jure*, the Church cannot make any Alienation of her Rights and Liberties ; so it is denied that she hath, *de facto*, made the same : But, on the contrary, it is most evident, that, like the betrothed, yet ravished, Damsel under the Law, she exclaims against such an unjust Force, and grievous Usurpation, as this of Patronage is.

The second Sense in which this pretended Grant or Concession of the Church may be understood is, *That the Patron acts by virtue of a Commission from, and as impowered by, the Church, without founding upon a Right of Property in the Power of Election, and in virtue of an Alienation of it made by the Church.*

With respect to which, the following Things may be considered,

1. That, in this Sense also, the Asserters of this Concession do acknowledge, that the Patron acts not in Reference to the Call and Maintenance of the Ministry *jure proprio*, but by a Power derived from the Church ; and that therefore it is the Church, and not he, that hath the proper and original Right to meddle in these Matters ; and consequently, that the Fountain of the Patron's Power is not Civil, but Spiritual and Ecclesiastick : And the true and natural Consequence of all is, That therefore the Patron ought to follow the Church's Inclinations, and not his own, in the Management and Administration of this Power, and ought not to oblige the Church to follow his Pleasure in it. Again, it follows as naturally, That since the Power by which the Patron acts is a Spiritual and Ecclesiastical Power, therefore he cannot, without the grossest *Simony*, sell and make Merchandice of it, as he doth of other Things that fall within the Compass of his private Patrimony,

2. It is to be considered, that the Church hath as little Warrant to bestow such constant, general, perpetual, and unaccountable Commissions ( especially upon such as are none of the ordinary Office-bearers of the Church ) in Reference to the Election and Maintenance of a Gospel-ministry, as she hath to alienate and divest herself of the Rights and Privileges she hath to act therein ; for both these Methods of Conveyance differ only in Degree, or are one and the same under different Terms : For in effect, from the Nature of the Thing, a Man may as fully and effectually alienate and divest himself of his Estate, under the Terms of a perpetual Tack, or under the Terms of a constant unaccountable Commission, as he can do by the most formal Right, under the Name and Terms of a full and absolute Sale and Alienation ; there being nothing more clear, than that, in both Cases, the same Design of transmitting the Property, and of divesting the first Owner, is made equally effectual in different Notions and Terms.

3. If by a Power derived from the Church, and by acting in her Name, the Patrons understand an acting in the Nature of an ordinary Commission, they must give up the Cause.

For, 1. In this Case the Patron must be content ( as all Commissioners must ) to subject himself to give an Account to the Church, as his Constituent, how he behaves himself in that Trust.

2. He must likewise be content to submit to what Censures the Church shall think fit to impose upon him, in case he be found to malverse.

3. He must be content to follow the Instructions of the Church in his Actings, and must not pretend to oblige the Church to what he pleaseth in the Management of that Trust.

4. The Patron must likewise be content to quit and lay down his Commission, and to give it up into the Hands of the Church, whenever she shall think fit to reassume the Power into her own Hands, and to manage it by herself, without the Assistance of such a Deputy.

5. He must also be content to let this Power and Trust expire with himself, and so exclude his Heirs.



6. He must pass from the very Name and Title of *Patron*, seeing that still implies a Superiority in the Patron, and a Subordination, or rather a Subjection and Slavery upon the Church, over which the Power is claimed and exercised ; which is a Thing absolutely inconsistent with the Nature of a Commission.

And, as in the former Sense of this pretended Concession, so in this also, it is denied that ever the Church hath granted such a Commission ; and the Patrons will find themselves equally straitned to prove, that ever the Church gave such a general and perpetual Commission, as that they will prove, that ever she made an absolute Alienation of her Rights.

From the Whole we see what Ground there is to assert, that Patronages are unlawful in themselves, as being no Ordinance or Institution of the Lord Jesus, as prejudicial to the Liberties and Privileges of the Church, in the Election, Admission, and Maintenance of their Ministers ; as against the common Freedom and Interest of Society as claiming a negative Interest in the Maintenance of the Ministry ; and unlawful on the two main Grounds on which the Right is pretended to be founded, *viz. The Reservation made by the Donor, or a Concession or Grant made him by the Church.*

I shall conclude the Performance with the following Testimonies against Patronages ; the first is the second Book of Discipline, *Chap. 12. § 10.* having in the ninth Section spoken of the Liberty of Election, " That none  
" be intruded on any Congregation, either by the Prince  
" or any inferior Person, without lawful Election, &c. *It is*  
" *added,* And because this Order, which God's Word  
" craves, cannot stand with Patronages, and Presentati-  
" ons to Benefices, used in the Pope's Kirk, &c. they  
" ought not now to have Place in this Light of Reforma-  
" tion, &c."

The second Testimony is from the Act of Parliament abolishing Patronages, *March 9th, 1649.* " The Estates  
" of Parliament considering that Patronages is an Evil  
" and Bondage, under which the Lord's People and Mi-  
" nisters have long groaned, and that it hath no War-  
" rant in God's Word, but is only founded on the com-  
" mon

“ mon Law, and is a Custom Popish, and brought into  
 “ the Kirk in Time of Ignorance and Superstition, and  
 “ that the same is contrary to the second Book of Disci-  
 “ pline, unto several Acts of Assembly, and is prejudicial  
 “ to the Liberties of People, and Planting of Kirks, and  
 “ unto the free Calling and Entry of Ministers into  
 “ their Charges; and the said Estates, being willing and  
 “ desirous that every Thing in the House of God be  
 “ ordered according to his Word and Commandment, do  
 “ therefore discharge all Patronages and Presentations to  
 “ Kirks, as being unlawful and unwarrantable by God’s  
 “ Word, and contrary to the Doctrine and Liberties of  
 “ this Kirk.”

A third Testimony we have in *Brandt’s History*, Vol.  
 3. p. 432. he tells us, That the Synod of *Leyden* which  
 met in *July* 1619, after the Rising of the Synod of *Dort*,  
 did agree, “ That since the Right of Patronage had no  
 “ Foundation in the Word of God, or in sound Reason,  
 “ and was Part of the Leaven of the Church of *Rome*,  
 “ and was prejudicial to the Call of Ministers, from  
 “ whence much Trouble daily arose, &c.”

A fourth Testimony we have in *Beza’s Confession*,  
*Cap. 7. Hoc dico, hoc vociferor, omnes illas provisiones,*  
*præsentationes, &c. totidem esse fenestras per quas vi per-*  
*rumpunt in ovili Domini, totidem cuniculos quibus do-*  
*num Dei, quantum in se fuit, subruerunt; quum ne-*  
*que in verbo Dei, neque in ullo purioris Ecclesiæ, scrip-*  
*to vel Græco vel Latino, vel livissima fuit istarum rerum*  
*mentio, quas unus Satan evomuit, ut Ecclesiæ puritatem*  
*inficeret: Ideoque non de ejusmodi rerum reformatione,*  
*sed ejectione, abolitione & ultima internectione, serio om-*  
*nibus piis hominibus esse cogitandum.*

A fifth Testimony is that of *Sibrandus Lubertus*, in  
 his *Responsio ad pietatem Hugonis Grotii*, p. 166. *Sed*  
*quia hoc jus patronatus admodum urges, dico illud in*  
*Dei verbo fundamentum non habere, sed esse posteriori-*  
*bus temporibus ad stabiliendum Papatum Romanum in-*  
*ductum. Tu cum sis doctor juris, & historiæ non im-*  
*peritus, fateberis libenter illud esse novum, & niti jure*  
*papali. Panormitanus de jure patronatus, ingenue fa-*  
*teatur, illud esse Ecclesiæ servitutem.*

A sixth Testimony is that of *Didoclavius* in his *Altare Damascenum*, p. 592. *Absurdum est patronum, qui unus est, & unum Ecclesie membrum totius multitudinis potestatem sibi vendicare, sed adhuc absurdus, transferri jus illud ad heredes per successionem, aut alios per donationem, aut per mutationem, quibus non eadem plerumque electionis cura, quæ primis patronis, & qui sepius nec illius Ecclesie membra sunt, cujus jura invadunt.* Page 6. *Patroni presentatio tollit Ecclesie libertatem in eligendis suis pastoribus.*

A seventh Testimony is that of *Amesius*, Cap. 25. of his *Cases of Conscience, De vocatione Ministrorum*: *Jus vocationis proprie non potest esse vel Episcoporum Dioecesanorum, vel Patronorum, vel Magistratum qua sunt tales, quia Christus qui Ministerium instituit, nihil novi juris ipsis communicavit, & Ecclesiam sine illis optime ordinatam reliquit. Jus vocandi ita quo ad proprietatem in Ecclesia manet, ut non possit vel autoritate aliena eripi, vel voluntaria concessione amitti, vel alienæ fidei plane committi.*

An eighth Testimony is from the *Considerer's Friend*, *Voet*, *Eccl. Pol. Parl. 2. Lib. 3. Tract. 2. Cap. 3.* *Cum bono Deo probabimus, præsumptum illud jus patronatus in se injustum, malum, & Ecclesiis noxium esse; nulloque distinctionum aut limitationum auxilio ita posse transformari, ut dictus patronus bona conscientia eo possit uti.* Cap. 9. he takes Notice of what *Weberus* had alledged on him, that he should have said, *Injustum jus patronatus, malum quod tollendum, non tolerandum, pseudojus Pontificium, fermentum expurgandum, defectum, lolium, hydram, morbum, informe monstrum.* To this *Voet* answers, without Apology, *Si defectus est si malum, si atrox, si pseudojus Pontificium, si repugnat juri & ordini Divino Apostolico antiquo Ecclesiastico, quomodo illud probare, amare, laudare, tueri, potero?*

A ninth Testimony is, from *Mr. Rutherford*, in his *Due Right of Presbyteries*, last Part, p. 463. speaking of the Patron's Presentation, if that should obtain, he saith, "Nor would the Church receive the Ministers from Christ, but by the Authority of the Patron, who doth nomi-

" nominate the Man ; and in Law chargeth the Presby-  
 " tery to admit him Minister of such a Flock. Nor is  
 " it enough to say, That the Patron doth present to  
 " such a Benefice only, and doth leave all the Ecclesiasti-  
 " cal Part to the Church, and the Officers thereof : This  
 " might say something, if the Patron were ty'd to the  
 " Church's free Choice ; whereas the contrary is true,  
 " the Church is ty'd to the Patron's Election of the Man :  
 " But this is nothing, because, the Patron being but one  
 " Man only, and so the Church can have no lawful Pro-  
 " priety, Right and Dominion over her Rents ; for  
 " Christ is only Lord and Proprietor, and just Titular  
 " of all Rents doted for the Maintenance of the Ministry :  
 " And, when the Place vaiketh, the Rents recur to the  
 " Church, as the proper Proprietor under Christ ; as  
 " the Goods of *Ananias* and *Sapphira* are the Goods of  
 " the Church, after they had given them into the publick  
 " Treasury of the Church. Therefore the Patron can  
 " give no Right to any Person to be presented and  
 " ordained ; for no Man can give to another that Title  
 " and Right which he hath not in himself. *Page 464.*  
 " Whatever taketh away an Ordinance of Christ, is un-  
 " lawful ; but the Power of Patrons takes away the Or-  
 " dinance of Christ, &c. *Page 465.* Every Ordinance  
 " not warranted by Christ's Testament, and abused to  
 " Sacrilege, Rapine, Dilapidation of Church-rents, and  
 " *Simoniacal* Pactions with the Intrants into the holy Mi-  
 " nistry, is to be abolished, and is unlawful ; but the  
 " Right of Patronages is such."

A tenth Testimony is that of Mr. *Robert Douglas*, for  
 which see *Wodrow's History*, Vol. 1. p. 127. the Words  
 are, " The receiving a Presentation may be accounted a  
 " small Matter ; but he who considers it well, will find  
 " it very weighty. Taking of Presentations condemns  
 " the Removing of Laick Patrons ; and, which is more,  
 " condemns the Call from the People, and it vacates the  
 " Right to the Benefice ; and says, they have no Right  
 " to it, and yet in Law *Beneficium sequitur officium*.

An eleventh Testimony is from Mr. *Park*, in his Trea-  
 tise against Patronages, p. 86, 87, 88. having before  
 spoken of the Patron's negative Interest in the Election  
 and



and Maintenance of the Ministry, as having no Warrant in the Word of God, he says, *If these Privileges of Patronages be without Foundation, either from the Word of God, or from moral Use and Necessity, they can be nothing else but unjust and unreasonable Usurpations. We have but too much Reason to apprehend, that this unjust and unwarrantable Usurpation is one of these crying Sins by which God hath been provoked in his Justice to lay waste and desolate most of the great Families of the Land. There are many standing Monuments of God's Wrath and Displeasure against such as meddle in the Affairs of his House without his own Warrant and Appointment. Saul, Uzza and Uzziah are Warnings to Men in all After-ages of the Church, not to partake of their Sins, lest they also partake of their Plagues, &c.*

A twelfth Testimony shall be that of our General Assemblies, but a few Years ago. The Assembly 1712 approve the Representations and Addresses made by the Commission in 1711 to the Queen, concerning Patronages; in which they say, *That Patronages are contrary to our Church-constitution, and will inevitably obstruct the Work of the Gospel, and create great Disorders and Disquiet in this Church and Nation. And the Assembly 1715, in their 10. Act, say, That by the Act restoring the Power of Presentation to Patrons, the legally established Constitution of this Church was altered in a very important Point.*

To all the Testimonies and Authorities given, I shall subjoin a Sentence or two from Bishop Burnet's Preface to the *History of the Rights of Princes*, &c. he quotes Mezeray, saying of the Concordate, "That, under Colour of taking away the Inconveniencies of Elections, to which it had been easy to have found a Remedy, Authority was given to other Inconveniencies that were much greater." I think this Gentleman would have laid the same upon our Act, *10mæ Annæ*, restoring Patronages, in which it is said, "That because Elections had caused Heats, therefore the Patron's Power is restored."

In the same Preface we have the Words of a *Venetian* Bishop, worthy of Room here, *viz.* "Our Fathers have  
" groined

“groned, and all that love the Order of the House of  
 “God, will still grone, as long as Elections continue to  
 “be put down; so that we must needs enter into the  
 “Sanctuary by the Way of the Court. The Clergy  
 “of *France*, the Parliament of *Paris*, and the Univer-  
 “sity, did vigorously oppose the Introduction of that  
 “new Device of secular Nominations, which changed  
 “the Face of the *Gallican* Church, and, from being a  
 “Queen, made her become a Slave. But all their Com-  
 “plaints were without Success; and God, to punish us  
 “for our Sins, did permit, that the Discipline under which  
 “she had so long flourished, was altered in such a Point,  
 “which was, as it were, the Key of the Vault.”

I think these Things will admit of a close Application  
 to the State of the Church of *Scotland* at this Day, in  
 which secular Nominations, and Presentations to Churches  
 by Patrons hath changed the Face of the Church, and,  
 from being a Queen, hath made her become a Slave; and  
 all our Complaints are without Success: But the *Recon-*  
*siderer* makes such Complaints Objects of his Ridicule.

We may further say, with the same *Venetian* Bishop,  
 “That Promotions by secular Nominations have been  
 “always fatal to the Church, and the Bishops that the  
 “Court has made, have been ordinarily the chief Ad-  
 “vancers of Schisms, Heresies, and of the Oppression of  
 “the Church.”

But, tho’ it is grievous to this Church, that notwith-  
 standing of all her legal Security there should be such an  
 Act as that *10mo Anne* restoring Patronages, an Act  
 made at a Time in which our Civil and Sacred Liberties  
 were in great Hazard; yet, considering the Relief given us  
 from the Force of that Act, by the Act 1719 concerning  
 Acceptances, the Blame is upon ourselves that Patrona-  
 ges or Presentations take Effect.

This Church is surely in a sad Situation when Presen-  
 tations are accepted, and Persons presented are settled a-  
 gainst the Will of the Congregation, and Presentations  
 are defended as an instituted Right, generally thought  
 convenient, when we might repel the Force of that  
 Grievance by not accepting: So that, tho’ the *Reconside-*  
*rer* should yet look on it as the Effect of Melancholly,  
 the

the *Considerer* will say, that the Cause why this Evil, with many others, so much prevails, and is so much countenanced, is, because we are a backslidden Church, that seem unwilling to be reformed or healed.

If the *Reconsiderer* would not reproach the Prophet *Jeremiah* as a melancholly Man, who had Need of the Physician, I would conclude with his Words, *Jeremiah* 30. 12, 13, 14. And O that every one of them who profess to love our *Jerusalem*, and to bewail her Desolations, may seriously consider if there be not at this Day Cause for such a Lamentation! — *Thy Bruise is incurable, and thy Wound is grievous. — There is none to plead thy Cause, that thou mayst be bound up, thou hast no healing Medicines. — All thy Lovers have forgotten thee, they seek thee not ; for I have wounded thee with the Wound of an Enemy, with the Chastisement of a cruel one, for the Multitude of thine Iniquity, because thy Sins are increased. — Why criest thou for thine Affliction? Thy Sorrow is incurable, for the Multitude of thine Iniquity : Because thy Sins were increased, I have done these Things unto thee.*

**F I N I S.**



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